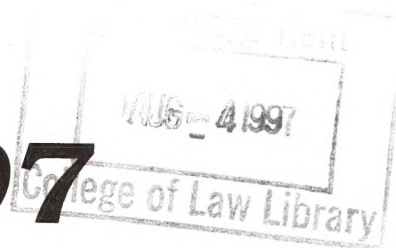


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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Community Care Program
- 2) Code Citation: 89 Ill. Adm. Code 240
- 3) Section Numbers:
240.1400 Amendment
240.1410 Amendment
240.1430 Amendment
240.1710 Amendment
- 4) Statutory Authority: 20 ILCS 105/4.02, 4.01(1), 4.01(11) and 5.02
- 5) A Complete Description of the Subjects and Issues Involved: Rules are being amended in Part 240 to conform to citation changes made in Part 220.
- 6) Will this proposed rule replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written comments concerning this rulemaking, within 45 days after the date of this issue of the *Illinois Register*, to:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue #100
Springfield, Illinois 62701-1789
Attention: Case Coordination Unit Rulemaking
(217) 785-3346

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Date: September 4, 1997 (Thursday)

Location: Illinois Department of Agriculture Building

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NOTICE OF PROPOSED AMENDMENTS

Illinois State Fairgrounds (8th and Sangamon Avenue - entrance)
Auditorium - Main Floor
Springfield, Illinois
Time: 1:30 pm to 3:00 pm

If special accommodations/provisions for the Hearing are required, such as a hearing interpreter, please contact the Senior HelpLine at 1-800-252-8966 (voice and TTY), no later than August 26, 1997.

The rule amendments will have an impact on small businesses. In accordance with Sections 1-20 and 5-20 of the Illinois Administrative Procedure Act, any small business may present their comments to Ms. Pamela W. Balmer, at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on the rule amendment shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Current Case Coordination Units and those small businesses which choose to participate in the Case Coordination Unit procurement process.

B) Reporting, bookkeeping or other procedures required for compliance: No change from current Department requirements.

C) Types of professional skills necessary for compliance: No change from current Department requirements.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendments begins on the next page:

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AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(1) of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(1)].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendments at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendments at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendments at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendments at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendments at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendments at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendments suspended at 16 Ill. Reg. 1744; emergency amendments modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendments at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendments at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendments at 16 Ill. Reg. 4069, effective February 28, 1992, to

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expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendments at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8995, effective July 1, 1996; amended at 20 Ill. Reg. 10597, effective August 1, 1996; amended at 21 Ill. Reg. 887, effective January 10, 1997; amended at 21 Ill. Reg. 6183, effective May 15, 1997; amended at 21 Ill. Reg. _____, effective _____.

SUBPART N: CASE COORDINATION UNITS

Section 240.1400 Community Care Program Case Management

- a) A designated Case Coordination Unit (CCU), as outlined in 89 Ill. Adm. Code 220.600 et seq., shall be contracted with as a CCU by the Department for a specific geographic area by executing a contract for the provision of Community Care Program (CCP) case management services.
- b) All providers of CCP case management services shall meet all standards promulgated by the Department relating to the services provided upon completion of the procurement as specified in 89 Ill. Adm. Code 220.610 §20-615 et seq. All Department funded CCUs must adhere to the equal opportunity requirements of the Illinois Department of Human Rights and the contract executed between the CCU and the Department.
- c) Case management services shall be purchased only from providers determined capable and competent by the Department to provide such services, as described in 89 Ill. Adm. Code 220.600 et seq. once a procurement has occurred under 89 Ill. Adm. Code 220.610 et seq.
- d) CCU contracts with the Department to provide CCP case management services shall not be assigned.
- e) CCUs shall not subcontract for the direct provision of CCP case management services unless prior written approval has been obtained from the Department.
- f) A CCP provider **vendor** may not serve as a CCU in the same contract service area except temporarily to provide for the orderly transition

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of duties while the Department and Area Agency seek a replacement CCU or the Department seeks a replacement provider **vendor**, as indicated in the particular case. In no instance shall such arrangement exist for longer than a three month period.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 240.1410 Case Coordination Unit Administrative Minimum Standards

- a) A Case Coordination Unit (CCU) must meet the Standard Contractual Requirements of Section 240.1310.
- b) A CCU shall be open for business at least seven hours each weekday (Monday through Friday) and shall have and utilize an alternative method approved by the Department, and on file at the CCU, for receiving requests from applicants/clients on any weekdays (excluding holidays) when the CCU is not open for business.
- c) All program records, reports, and related information and documentation, including client files, which are generated in support of the contract between the CCU and the Department shall be considered the property of the Department.

1) The CCU shall submit, upon demand, or otherwise make available at the option of the Department, all such records, information and documentation to the Department/Department authorized designees.

2) All such records, information and documentation shall be maintained by the CCU in accordance with provisions of 89 Ill. Adm. Code 220.100 §20-600(4).

3) All records, case notes or other information maintained on persons served under the contract shall be confidential and shall be protected by the CCU from unauthorized disclosure as required by 89 Ill. Adm. Code 220.100 and Section 240.340 of this Part.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 240.1430 Case Management Staff Positions, Qualifications and Responsibilities

- a) A Case Coordination Unit (CCU) shall have specified staff to carry out the following functions:

- 1) case management, and
- 2) supervision of case managers.
- b) Case management supervisor qualifications shall be as specified in 89 Ill. Adm. Code 220.605(a)(2).
- c) Case manager qualifications shall be as specified in 89 Ill. Adm. Code 220.605(b)(2) (a)-(4).
- d) Case manager activities and responsibilities shall, at a minimum, include:

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- 1) administration of the Determination of Need;
 - 2) development of a CCP Client Agreement - Plan of Care;
 - 3) performance and/or approval of nursing home prescreening;
 - 4) performance of Illinois Department of Human Services (DHS) ~~Mental Health-and-Developmental-Disabilities-(BMDHDB)~~ OBRA-1 (Level I ID Screen);
 - 5) authorization of CCP services; and
 - 6) attendance at appeal hearings.
- e) Required activities which may be performed by a case manager or other CCU staff include:
- 1) screening of inquiries;
 - 2) arranging for service implementation in accordance with each specific Client Agreement - Plan of Care;
 - 3) completing Case Authorization Forms;
 - 4) reviewing and correcting Case Authorization Forms;
 - 5) assisting providers ~~vendors~~ with Vendor Request for Payment (VRFP) rejections;
 - 6) timely provision of documents requested by the Department for client appeals or other Departmental matters;
 - 7) implementing case transfers; and
 - 8) assisting with referral of applicants/clients to the Illinois Department of Public Aid for Medicaid application as requested.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART Q: CASE COORDINATION UNIT PROCUREMENT

Section 240.1710 Procurement Cycle For Case Management Services

The Department will solicit Proposals as specified in 89 Ill. Adm. Code 220.610 through 220.645 ~~on-the-same-three-year-cycle-specified-in-89-III-Adm-Code 220-615(f)~~. When conducting the solicitation as specified in 89 Ill. Adm. Code 220.655(e) ~~fgt~~, the Department shall assume all responsibilities specified for the Area Agency on Aging in 89 Ill. Adm. Code 220.610 through 220.645.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

- 1) Heading of the Part: General Programmatic Requirements
- 2) Code Citation: 89 Ill. Adm. Code 220
- 3) Section Numbers: Proposed Action:

220.600	Amendment
220.605	Amendment
220.610	Amendment
220.615	Repeal
220.620	Repeal
220.625	Repeal
220.630	Amendment
220.635	Amendment
220.640	Amendment
220.645	Amendment
220.650	Amendment
220.655	Amendment
220.660	Amendment
220.665	Repeal
220.670	Amendment
220.675	New Section

APPENDIX A

Repeal

- 4) Statutory Authority: 20 ILCS 105/4.01(11) and 5.02

- 5) A Complete Description of the Subjects and Issues Involved: Since the Case Coordination Unit (CCU) procurement process was implemented in FY 1993, the Department has received concerns from CCU applicants and Area Agencies on Aging concerning the proposal process. In addition, changes in human services on both the Federal and State level point to significant changes in the role of CCUs in the service delivery system and require changes in Department rules.

- 6) Will this proposed rule replace an emergency rule currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

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Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue #100
Springfield, Illinois 62701-1789
Attention: Case Coordination Unit Rulemaking
(217) 785-3346

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Date: September 4, 1997 (Thursday)
Location: Illinois Department of Agriculture Building
Illinois State Fairgrounds (8th and Sangamon
Avenue - entrance)
Auditorium - Main Floor
Springfield, Illinois
Time: 1:30 pm to 3:00 pm

If special accommodations/provisions for the Hearing are required, such as a hearing interpreter, please contact the Senior HelpLine at 1-800-252-8966 (voice and TTY), no later than August 26, 1997.

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Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on the rule amendment shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: Current Case Coordination Units and those small businesses which choose to participate in the Case Coordination Unit procurement process.
- B) Reporting, bookkeeping or other procedures required for compliance:
No change from current Department requirements.
- C) Types of professional skills necessary for compliance: No change from current Department requirements.

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NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGINGPART 220
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220.100	Client Cooperation
220.200	Referral Requirements
220.300	Other Resources Supporting the Cost of In-Home Care Services
220.400	Appeals and Fair Hearings
220.500	Initiation of Appeal Process
220.501	Request for Hearing or Appeal
220.502	Place of Filing
220.503	Responsibility of Department or Area Agency on Aging
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220.505	Hearing Officer
220.506	Notice of Hearing
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220.508	Appellant Participation in Hearing
220.509	Amendment of Appeal
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220.513	Evidentiary Requirements
220.514	Closing of Hearing Record
220.515	Dismissal of Appeals
220.516	Transcript
220.517	Decision
220.518	Notice of Decision to Appellant
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220.670	Sanctions for Case Coordination Unit Failure to Comply with Case Management Contract/Grant
220.675	Sanction Notification and Case Coordination Unit Right to Appeal
APPENDIX A	Names and Addresses of Area Agencies on Aging by Planning and Service Area (Repealed)

AUTHORITY: Implementing and authorized by Section 4.01 of the Illinois Act on the Aging [20 ILCS 105/4.01].

SOURCE: Adopted at 5 Ill. Reg. 3722, effective March 31, 1981; codified at 8 Ill. Reg. 19310; amended at 15 Ill. Reg. 18603, effective December 13, 1991; emergency amendment at 17 Ill. Reg. 1179, effective January 11, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 8472, effective June 9, 1993; amended at 21 Ill. Reg. _____, effective _____.

Section 220.600 Case Coordination Unit Minimum Standards

- a) To be Designated as a Case Coordination Unit (CCU) for a specific geographic area, as identified by the Area Agency on Aging (AAA) in a specified planning and service area, an agency shall enter into a contract or grant with the AAA to provide Title III (Older Americans Act (42 U.S.C.)) case management services pursuant to 89 Ill. Adm. Code 230 (Subpart G) and with the Department to provide Community Care Program (CCP) case management services pursuant to 89 Ill. Adm. Code 240.260 and 240.1400 et seq.
- 1) The agency shall be a free-standing, single purpose agency, or shall be part of a multi-purpose agency. A multi-purpose agency shall have a separate, clearly definable organizational unit functioning as the CCU.

A) An AAA shall not be designated a CCU in the same planning and service area (psa) except in an emergency situation as specified in Section 220.655(e)(9).

B) A CCP provider vendor may not serve as a CCU in the same contract service area except in temporary situations as specified in 89 Ill. Adm. Code 240.1400(f).

C) No organization having a conflict of interest in the performance of case management service activities shall serve as a CCU.

2) The designation of CCUs shall be accomplished by the AAA and the Department as described in Sections 220.610 through 220.645 of this Part.

3) The designated CCU must be in compliance with Older Americans Act (42 U.S.C.) requirements.

4) Only one designated CCU shall have jurisdiction in a particular geographic area.

b) Case management service is defined as assistance either in the form of access or care coordination in circumstances where the older persons and/or their caregivers are experiencing diminished functioning

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capacities, personal conditions or other characteristics which require the provision of service by formal service providers. Activities of case management include assessing needs, developing case plans, authorizing services, arranging services, coordinating the provision of services among providers, follow-up and reassessment, as required. ~~the provision of comprehensive needs assessments and service coordination to assist older persons to gain access to and receive needed services, with efforts made to mobilize and coordinate formal and informal sources of support on behalf of the older person.~~

c) An individual AAA may establish additional requirements than those specified in subsections (e) ~~and~~ through (k) ~~relative to any contract/grant for case management services provided in its respective planning and service area. The AAA Area Agency shall arrange for funding of such additional requirements higher standards. Such additional requirements shall bear no additional cost to the Department or to recipients of services.~~

d) An individual AAA may require a CCU to provide additional Older Americans Act (42 U.S.C.) or General Revenue Fund services which are directly related to case management as defined in subsection (b) above.

e) ~~and~~ Case management service activities shall minimally include (as specified in 89 Ill. Adm. Code 230.250(i)(1) and 240.1420):

- 1) Intake: Older persons who are potentially in need of case management services shall be screened.
- 2) Needs Assessment: A face-to-face assessment/reassessment shall be conducted for all potentially eligible or current Title III case management clients and CCP applicants/clients.
- 3) Case Plan Development: A written goal-oriented case plan shall be prepared for all individuals determined to be in need of case management services.
- 4) Case Plan Implementation: A referral of the client shall be made to appropriate formal and informal resources.
- 5) Follow-up: Contact to ensure that service has been implemented for the client.

f) ~~and~~ The CCU shall minimally:

- 1) Coordinate services with the following types of organizations in the contractual area:
 - A) Information and Assistance and Outreach Referral Providers
 - B) Nursing Facilities
 - C) ~~Health Care Providers~~ (including all hospitals in the geographic area)
 - D) ~~Social Service Providers~~
 - E) ~~Public Assistance/Financial Assistance Organizations~~
 - F) ~~Elder Abuse and Ombudsman Provider Agencies~~
- 2) Coordinate services to individual clients and shall, at a minimum, include a process for handling information requests, referrals, and follow-up activities. The process must be clearly defined in written policy and procedures.

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3) Establish and follow procedures, which must be retained on file, to assure ~~Assure~~ that each client has an assigned case manager to contact, including and back-up procedures for assigning a substitute case manager, who meets the minimum requirements specified in Section 220.605 of this Part and in 89 Ill. Adm. Code 240.1440, in the absence of the assigned case manager.

4) Establish and follow procedures, which must be retained on file to assure ~~Assure~~ maintenance of and safeguard the use of and disclosure of information relating to applicants and clients as required by Federal or State laws, rules and regulations and the requirements specified in Section 220.100 of this Part and in 89 Ill. Adm. Code 240.340.

5) Present service options and available providers to each client and/or client's authorized representative in an objective manner.

6) Establish and follow a written procedure for coordinating the CCU intake system with the Title III Information and Assistance and Outreach providers.

7) ~~and~~ Arrange services to non-English speaking and hearing impaired applicants and/or clients.

8) Have a TTY to accommodate the hearing impaired.

9) ~~and~~ Comply with the Illinois Human Rights Act [775 ILCS 5] ~~(Title III)~~ ~~Rev. Stat. 1989, ch. 68, Equal Employment Opportunity Act of 1974, the Federal Rehabilitation Act of 1973, the Federal Immigration and Relocation Act of 1986, and the Department's Civil Rights Program.~~

10) ~~and~~ Perform service activities and responsibilities for which a contract/grant is in effect.

11) ~~and~~ Establish personnel policies, job descriptions, training schedules and wages for each job category in accordance with all applicable State and Federal rules and requirements and Department procedures. Personnel policies shall include hours of work, benefits, and promotion and evaluation criteria.

A) ~~where shall be a written job description for each job category for all paid and volunteer staff positions which are part of the service.~~

B) ~~Personnel records shall be maintained for each employee and shall include at least the following:~~

- i) Employee application or resume;
- ii) Annual performance evaluation;
- iii) Supervisory reports regarding case managers; and
- iv) Documentation of meeting all training requirements specified in Section 240.1440.

E) ~~The CCU shall demonstrate that:~~

- i) a copy of the employee's specific job description has been provided to the employee;
- ii) the employee has received a copy of current written personnel policies for his/her specific job category at the time of employment; and any subsequent

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revisions:

- ii) the employee has been informed of the wages for the specific job category at the time of employment and any subsequent revisions;
- iv) the employee benefits and grievance procedures, which meet applicable Federal and State regulations, have been clearly stated and provided in writing for each employee.

12) Assume each individual employed by the CCU having face-to-face contact with clients in the client's residence and/or in the hospital shall be free from communicable disease.

g) The CCU shall be located to provide accessibility to older persons and their families and other organizations providing services to the elderly in the agency's jurisdiction.

h) Any satellite office(s) operated by the CCU shall comply with all rules and regulations, as set forth in 89 Ill. Adm. Code 220, 230 and 240.

i) The CCU shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in performance of the contract(s) and/or grant(s). These records shall be subject at all reasonable times to inspection, review, and/or audit as specified in 89 Ill. Adm. Code 230 and 240.

j) The CCU shall provide for financial audits in accordance with requirements specified in 89 Ill. Adm. Code 230.360 and 89 Ill. Adm. Code 240.1420.

k) The CCU shall comply with all applicable Federal, State and local laws, rules, regulations and ordinances as well as all specified specific requirements as set forth in this Part and in 89 Ill. Adm. Code 230 and 240.

l) All program records, reports, and related information and documentation, including files of terminated clients, which are generated in support of a contract/grant between the CCU and the Department/AAA shall be maintained by the CCU for a minimum of five years after the completion of the contract/grant. From the submission of the last expenditure report of the appropriate fiscal year or for a period of time otherwise specified by the Department/AAA to the Department/AAA, if any litigation, claim or audit is started prior to the expiration of the five year period, the records shall be retained until all litigation, claims or audit findings involving the affected records, information or documentation has been resolved.

m) Each CCU shall carry general liability insurance in the single limit minimum amount of \$100,000 per occurrence. The policies or current letters documenting all insurance coverage shall be available in the CCU files.

n) CCUs shall not subcontract for the direct provision of case management services unless prior written approval has been obtained from the Department and the AAA, as appropriate.

- o) CCUs are expressly prohibited from assigning either their contract with the Department or their contract/grant with the AAA.
- p) The CCU shall provide for financial audits in accordance with requirements specified in 89 Ill. Adm. Code 230.360 et seq. and 240.1420.
- q) All records, case notes or other information maintained on persons served under the contract shall be confidential and shall be protected by the CCU from unauthorized disclosure pursuant to Section 220-100.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.605 Case Management Staff Requirements and Qualifications

a) The agency shall have sufficient staff to perform all activities and to fulfill all responsibilities outlined in 89 Ill. Adm. Code 230 Subpart G 610 et seq. and 89 Ill. Adm. Code 240 Subpart N 1400 et seq. for which a contract/grant is in effect.

a) Case Management Supervisor

1) Case management supervisor activities shall include:

- A) consultation on case management activities as needed to provide proper supervision;
- B) documented provision of training on Illinois Department on Aging and Area Agency on Aging policies, procedures and case management techniques, including those specified in 89 Ill. Adm. Code Section 240.1440; and
- C) annual written performance evaluation of case managers for whom they serve as supervisor.

2) Case management supervisor minimum qualifications shall:

- A) Both:
- i) be either a RN, or have a BSN or a BA/BS degree in health or social sciences, social work, or health service administration; and
- ii) have at least two years experience in health or human services. This experience shall include one year of supervisory experience or program experience, which is defined as assessment, provision, and/or authorization of formal services for the elderly; or

B) be waived for persons hired/serving in this capacity prior to December 13, 1991. rule adoption

b) Case Manager

1) Case manager activities shall include:

- A) administration of the appropriate intake form, including a comprehensive needs assessment;
- B) development of a case plan;
- C) making appropriate referrals and responding to applicant/client requests;
- D) authorization of services; and

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E) maintaining case records, including documentation of follow-up, reassessment, and of termination.

24) Case manager minimum qualifications shall:

A) be a RN, or a BSN or a BA/BS degree in social science, social work or related field. One year of program experience, which is defined as assessment, provision, and/or authorization of formal services for the elderly, may replace one year of college education up to and including four years of experience replacing a baccalaureate degree; or

B) be a LPN with one year of program experience which is defined as assessment of and provision of formal services for the elderly and/or authorizing service provision; or

C) be waived for persons hired/serving in this capacity prior to December 13, 1991, ~~rule-adopted~~.

C5) Case management supervisors ~~Manager-Supervisors~~ and case managers shall meet all training requirements as specified in 89 Ill. Adm. Code Section 240.11440.

d) The agency may utilize case aides, under the direct supervision of a case manager, to assist with specified back-up case management activities, including collateral visits, intake/referrals, program information and paperwork verifications.

1) Case aides shall be trained by the case manager and/or the case management supervisor.

2) Case aides shall not perform assessments, develop case plans, or authorize services.

3) The case manager shall retain responsibility for all case aide activities related to case management.

4) The agency shall ensure that activities assigned to the individual case aide do not exceed that case aide's level of education, experience and training.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.610 Case Coordination Unit Procurement

~~in-order-to-maximize-competition-in-procurement; case management services shall be procured through use of the Request for Proposal process described in Sections 220.615 through 220.640 after the effective date of this Section.~~

a) The services procured pursuant to this Part are considered by the Department to be professional services to protect the health, safety and welfare of older persons. Although the Department is not required to competitively bid professional services, in order to maximize competition in procurement, case management services shall be procured through use of the Request for Proposal process whenever possible.

1) A Request for Proposal (RFP) is a form of invitation to bid which the Department and the AAA shall use to obtain case management

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services to be provided by a CCU.

2) The RFP shall explain the purpose for submittal of a proposal, outline the scope of the work, and solicit proposals from agencies for the funding of case management services to be provided by CCUs for the Department's Community Care Program and for the AAA.

b) Case management services shall be procured by use of the following procurement cycle:

1) Each county/service area will be opened for free and open competition for designation to provide case management service on a three year cycle beginning in Fiscal Year 1993. Proposals shall be solicited using the procurement process specified in 89 Ill. Adm. Code 220.610 through 220.645 of this Part.

2) After each county/service area has been opened at least once for free and open competition, a county/service area will be reopened in accordance with Section 220.610 through 220.645 of this Part, at least once every six years, unless the Department, for purposes of administration, finds it necessary to suspend the procurement cycle. Such suspension shall also apply to emergency contracts executed under Section 220.655 of this Part.

3) The Department/AAA shall offer a contract/grant for a one year period, with the option to extend the contract/grant for a maximum of five additional one year periods for a total of six years. Thus, a contractor may be issued a new contract/grant for a six year period.

4) Contractors will be notified of any change in the reimbursement amount which occurs during the period of the contract/grant.

c) All CCU procurement actions shall be advertised in accordance with procedures issued by the Department.

d) The AAA shall ensure that a CCU Proposal and Guidelines are issued to current contractors in good standing whose service areas are open for solicitation.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.615 Procurement Cycle (Repealed)

~~At least once every three years each county/service area will be opened for free and open competition for designation to provide case management services as specified in Section 240.645.~~

a) ~~To ensure that each contract/grant is procured pursuant to these rules, all areas of the State will have been opened for initial solicitation by the end of Federal Fiscal Year 1994 to begin the three year cycle.~~

b) ~~The Department/Area Agency on Aging (AAA) shall offer a contract/grant for a one year period, with option to extend the contract/grant for a period of time not to exceed two additional one year periods following~~

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the initial contract execution. Thus, a contractor exhibiting good service performance might be retained through contract extension for a three-year period:

- c) In the event that a change in the reimbursement amount occurs during the period of the contract/grant, the Department/AAA shall exercise the thirty-calendar-day termination or mutual amendment rights specified in the contract/grant in order to ensure full implementation of the adjusted rate.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 220.620 Definition of Case Coordination Unit Request For Proposal (Repealed)

A Request for Proposal (RFP) is a form of invitation to bid which the Department and the Area Agency on Aging (AAA) shall use to obtain case management services to be provided by a Case Coordination Unit (CCU). The RFP shall explain the purpose of the invitation to bid, outline the scope of the work, and solicit proposals from agencies for the funding of case management services to be provided by CCUs for the Department's Community Care Program and for the Area Agency on Aging.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 220.625 Issuance of Case Coordination Unit Proposal and Guidelines (Repealed)

- a) All Case Coordination Unit (CCU) procurement actions shall be advertised in the official State newspaper:

1) Advertisements shall appear at least 3 times with the first and last advertisement at least 10 calendar days apart.

2) Advertisements shall detail the Department's and AAA's needs or may generally indicate needs while inviting agencies to request the CCU proposal and Guidelines (refer to Section 220.630).

- b) The Department and the AAA shall establish and maintain a list of applicants/agencies who are interested in providing case management services and have demonstrated that interest in writing to the Department or to the AAA.

1) The Department shall provide the AAA with the Department's list of applicants/agencies and the AAA shall provide the Department with the AAA's list of applicants/agencies at least 2 weeks prior to issuance of the CCU proposal and Guidelines.

2) All applicants/agencies on these mailing lists will be notified in writing of the advertised procurement action by the AAA.

3) The AAA shall send the complete CCU proposal and Guidelines to all applicants/agencies which request these documents.

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- 4) The applicant/agency lists shall be maintained until the Request for Proposal (RFP) process has been completed.
- 5) Following the RFP and subsequent award process, applicants must again request placement on the list in writing for the next solicitation.

- c) The AAA shall ensure that a CCU proposal and Guidelines are issued to current contractors in good standing whose service areas are open for solicitation.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 220.630 Content of Case Coordination Unit Request For Proposal Documents

- a) A standard Case Coordination Unit (CCU) Proposal, with instructions and Guidelines shall be utilized by an Area Agency on Aging (AAA) conducting a solicitation, or by the Department in the event that a particular AAA is unwilling or unable to conduct the procurement.

Prior to the beginning of the procurement cycle, the standard CCU Proposal and Guidelines shall be developed jointly by the Department and AAAs, and shall be utilized by all AAAs.

- 1) Additional requirements (refer to Section 220.600(c)) mandated by a particular AAA shall be added to the standard CCU proposal. AAAs shall arrange for funding for such higher standards. Such additional standards shall bear no additional cost to the Department.

- 2) Additional services, if required by a particular AAA to be provided through a case management contract/grant, shall be directly related to case management services as defined in Section 220.600(b) (e.g., information and referral, Outreach, Embudsment) and shall be added to the standard CCU Proposal.

- b) The CCU Request for Proposal package shall include: consist of the questions and required attachments to be completed by the applicant and returned to the AAA or the Department, as appropriate, for consideration and scoring.

- 1) Proposal, which shall consist of the questions and required attachments to be completed by the applicant and returned to the AAA or the Department, as appropriate, for consideration and scoring. Proposal criteria shall include:

A) Experience in service provision, and

B) Commitments to meet or exceed Community Care Program and/or Title III minimum service requirements for:

- i) Program management
- ii) Service delivery
- iii) Client issues
- iv) Staffing, and
- v) Training.

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- 89 Ill. Adm. Code 220, 230 and/or 240 shall be rejected.
- 4) The Director of the Department reserves the right to reject any informality of a proposal when, in the Director's opinion, the best interests of the State will be served by such action.
- 5) Review of the CCU proposal shall identify the final score of each proposal.
- b) The AAA will forward the originally submitted proposals, the score sheets and the AAA's written recommendation for designation (refer to Section 220.640 of this Part) to the Department.
- c) The Department will review the AAA's process and recommendation for designation.
- a) Upon receipt of the proposals, the Area Agency on Aging (AAA) shall log in the proposals.
- b) Three copies of each proposal shall be held as originally submitted for forwarding to the Department.
- c) The AAA will review and score all proposals in accordance with Section 220.640, on a standard score sheet.
- d) The AAA will forward the originally submitted proposals, the scoring sheets and the AAA's written recommendation for designation (refer to Section 220.645) to the Department.
- e) The Department will review the AAA's process and recommendation for designation.
- f) The Department will develop its recommendation for designation.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.640 Recommendations for Evaluation of Case Coordination Unit Designation Proposals

- a) The AAA shall make recommendation(s) for designation to the Department.
- b) If the Department agrees with the AAA recommendation(s), a joint recommendation for designation shall be made to the Director.
- c) In the event the Department and AAA recommendations are not in agreement, the Department will meet with the AAA to discuss the differences and attempt to reach a joint recommendation.
- d) If, after review of the proposals submitted, the Department and the AAA agree that no applicant qualifies for designation, or if no proposals are received for a geographic area in response to the Request for Proposal process, the Department and the AAA shall secure CCU services through any means of selection likely to result in a contract/grant and shall issue a contract/grant for these services.
- a) A proposal which fails to meet minimum requirements contained in 89 Ill. Adm. Code 220.7-230.7 and 240.7 shall be rejected.
- b) When determining if an applicant shall be recommended for designation, the Area Agency on Aging (AAA) or the Department shall evaluate the Case Coordination Unit (CCU) Proposal.

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- 2) Guidelines, which shall contain necessary information to enable a prospective CCU to prepare a proposal.
- e) The guidelines for completion of the CCU Proposal shall contain necessary information to enable a prospective CCU to prepare a proposal including:
- 1) a clear and accurate description of the case management service to be provided;
- 2) the submission process;
- 3) the review process;
- 4) general contract and bid information;
- 5) date, time and address of bidders' conference when applicable;
- 6) contact persons;
- 7) evaluation factors and the weighting of those factors;
- 8) anticipated amounts of contract/grant award for service.
- d) All proposals shall be considered as submitted and may not be amended or revised except as determined by the AAA or the Department as appropriate upon submission of supportive evidence of an apparent clerical mistake or other informality disclosed prior to award of the contract/grant. (See Section 220.640.)
- 1) No corrections shall be permitted to make unresponsive proposals responsive to the rating criteria and proposal guidelines.
- 2) Allowable administrative corrections will be made by the AAA or the Department as appropriate within seven calendar days from the date of receipt of documentation supporting the administrative corrections.
- e) A proposal which does not respond to all requirements in the CCU Proposal and Guidelines shall be deemed incomplete and shall not be considered by the Department or AAA.
- f) The Director of the Department reserves the right to reject any informality of a proposal when in the Director's opinion the best interests of the State will be served by such action.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.635 Review of Case Coordination Unit Proposals

- a) In order to determine if an applicant shall be recommended for designation, the AAA and the Department shall separately review and evaluate the complete CCU proposal in accordance with Department review procedures.
- 1) All proposals shall be considered as submitted and may not be amended, corrected or revised except when determined appropriate by the AAA or the Department.
- 2) A proposal which does not respond to all requirements in the CCU Proposal and Guidelines shall be deemed incomplete and shall not be considered by the Department or AAA.
- 3) A proposal which fails to meet minimum requirements contained in

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- b) After the evaluation of proposals has been completed and the Department and AAA have agreed upon a designation, the Department and AAA shall jointly notify each applicant in writing of the applicant's success or failure to be offered a contract/grant and designation as a Case Coordination Unit (CCU). Included in the notification shall be:
- 1) a copy of the criteria used to rate the proposal;
 - 2) a photocopy of the applicant's and successful applicant's score sheets; and
 - 3) a comparative chart of section total scores received by a successful competitor for that geographic contract/grant area.
- c) All agencies submitting successful proposals shall be offered a contract/grant from the Department and a contract/grant from the AAA as appropriate. The successful proposal shall be an integral part of the contract/grant awarded.
- d) A successful CCU shall be held accountable for all statements made in the CCU proposal as well as any amendments made to a contract/grant until such time as the contract/grant is terminated or a new proposal is solicited and the CCU has been awarded a new contract/grant.
- 1) A contract/grant may be amended with the mutual consent of the Department and AAA and the CCU at any time during the term of the contract/grant;
 - 2) Determination of the extent of a CCU's compliance with that agency's proposal/contract/grant and any applicable amendments shall be made by the Department and the AAA through separate review processes.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.650 Objection to Case Coordination Unit Designation Decision Award Determination

- a) Upon receipt of the written notification of designation decision, notice specified in subsection 220-645-1b) the applicant may object to the decision procurement action. The Department shall provide information on the objection process with the written notification.
- 1) An objection regarding a designation procurement action or decision must be in writing and sent by certified or registered mail--return--receipt--requested to the Director at the Department's Springfield office within ten calendar days from the date of the objecting agency's receipt by the objector of the designation decision. Notice of the objectionable action.
 - 2) Upon receipt of an objection, the Department shall immediately notify the applicable affected Area Agency on Aging (AAA) upon receipt of an objection. The objection will be processed in accordance with Department procedures and a recommendation will be forwarded to the Director.

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- 3) If the objection is not received in the time specified above, the objection will be denied and the award will be made based upon the Director's original designation decision in the normal manner.
- 4) Each objection must contain:
- A) A full and concise statement of the facts and circumstances of the action which is alleged to be objectionable, legally or otherwise; and
 - B) A statement of the relief sought.
- e) A request that the Department review of the objection be conducted either face-to-face with the appellant or through a paper work review of the relevant documentation.
- 45) The Department may request additional details from the objecting agency and from the AAA at any time. Failure of the objecting agency to supply information requested by the Department will be cause for dismissal of the objection.
- b) A contract/grant if a written objection against the making of an award is received, the award shall not be awarded until after the objection is considered final until the matter is resolved, unless the Department determines that:
- 1) The services to be procured are urgently required and cannot be delayed until the objection is resolved; or
 - 2) Delivery or performance of the services will be unduly delayed by failure to make an award promptly; or
 - 23) A prompt award will otherwise be advantageous to the State.
- c) Upon receipt of a written objection specifying the desire of the appellant for a face-to-face review, a hearing shall be conducted in accordance with Section 220-500 et seq. and a recommendation will be made to the Director by the hearing officer. If the AAA conducted the procurement to which the objection relates, the AAA shall act as a party in the face-to-face review.
- d) Upon receipt of a written objection specifying the desire for a paper work review of the relevant documentation, appropriate Department staff shall review the procurement action in question and make a recommendation to the Director.
- ce) The designation decision shall not be considered final until an objection decision is issued by the Director is final.
- 1) The Director shall issue a response in writing to the objecting agency which shall be sent by certified mail, return receipt requested.
 - 2) A copy of the Director's decision shall be provided to the appropriate AAA Area Agency on Aging.
 - 3) The decision of the Director is final.
- (Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.655 Replacement of a Procurement of a Replacement Case

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Coordination Unit

- a) A contract between the Department and a Case-Coordination-Unit-t CCU) or a contract/grant between the Area-Agency-on-Aging-t AAA) and the CCU may be terminated prior to the regular procurement cycle due to:
 - 1) the CCU exercising its termination rights as specified in the contract/grant, or
 - 2) the CCU failing to perform in accordance with applicable provisions of 89 Ill. Adm. Code 220, 230 and/or 240, or other provisions of the contract/grant.
- b) A contract/grant may be terminated by either the Department or the AAA. Both the Department and the AAA shall abide by the decision to terminate. When the termination decision is made by either the Department or the AAA, the contract/grant shall be concurrently terminated by both the Department and the AAA.
- c) In the event of termination of a CCU contract/grant in accordance with subsection (a) or (b), the AAA shall review the proposals submitted during the previous Request for Proposal Proposals (RPP) submittal in the solicited area. and following notification to and acceptance by the Department, shall offer a temporary negotiated contract/grant to the second-ranked viable applicant from that previous RPP submittal.
 - 1) If the second ranked viable applicant from that previous RPP submittal is acceptable to the AAA and the Department, the AAA and the Department shall recommend to the Director that a replacement contract/grant be offered to the applicant.
 - 2) If the AAA and/or the Department determines that proposals from the previous RPP submittal do not yield an acceptable agency/organization for designation as the CCU, or if there was no second applicant, the AAA shall procure the needed CCU in accordance with the procurement process contained in Sections 220.610 through 220.650 of this Part. If the AAA notifies the Department that it elects not to take the lead in procuring the needed CCU, the Department shall take the lead and shall keep the AAA apprised at all stages of the procurement/designation process.
- d) If time does not permit the use of the procurement process specified in Sections 220.610 through 220.650 of this Part, the Department/AAA shall issue a replacement contract/grant through any means of selection likely to result in a contract. Circumstances under which this action is indicated include:
 - 1) service is immediately needed to:
 - A) prevent interruption of services to current clients; or
 - B) protect clients or clients' health, safety or welfare; and
 - 2) only one CCU is reasonably capable or willing to perform, per the Department/AAA assessment of viable alternate applicants.
- e) If the AAA and/or the Department determine that applications from the previous RPP submittal do not yield an acceptable agency/organization for designation as the CCU, or if there was no second applicant, the

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- AAA shall procure the needed CCU in accordance with the process contained in Sections 220.610 through 220.650.
- e) If the AAA notifies the Department that it elects not to take the lead in procuring the needed CCU, the Department shall take the lead per Sections 220.610 through 220.650 while assuming that the AAA is apprised at all stages of the procurement/designation process.
- f) In the event of an emergency and the public emergency will not permit a delay incident to competitive solicitations, the RPP process will not be used and the Department/AAA shall issue a temporary negotiated contract in accordance with provisions of Section 220.645(f)(4)(B).
- g) In the event that no replacement temporary negotiated contract/grant can be awarded, the Department shall request that the AAA perform the CCU function on an emergency basis. If an AAA serves as a CCU, an Area Plan direct service waiver shall be submitted to the Department, as specified in 89 Ill. Adm. Code 230.130(f).
- f) A replacement contract/grant shall be effective until the solicited area is opened by the AAA for the next regularly scheduled procurement. (Refer to Section 220.610 of this Part.)
- h) All temporary and emergency contracts and grants shall expire at a maximum, no later than the end of the next completed procurement or at the end of one year, whichever occurs first.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.660 Performance Compliance Reviews of Case Coordination Units

- a) Determination of the extent of CCU compliance with the agency's proposal/contract/grant and any applicable amendments shall be made by the Department and the AAA through separate review processes.
- Case-Coordination-Units shall be reviewed on-site at least twice in each three-year period, once by the Department and once by the Area Agency on Aging (AAA). (See Section 220.665.)
- b) The compliance reviews conducted by the AAA Area Agency on Aging shall not duplicate, in content, the compliance reviews conducted by the Department.
 - e) The Department shall develop and implement a single compliance review instrument and compliance review process to be applied during any single funding period.
 - b) In order to ensure statewide continuity, the AAAs shall develop and implement a single compliance review instrument and a single compliance review process to be applied during any single funding period. Any AAA implementing additional requirements and/or services (refer to Section 220.630(f)) shall develop additional sections addressing those AAA-specific additional requirements and/or services.
 - e) Both the Department and the AAA's compliance review instrument shall address requirements as contained in the funding instrument (contract or grant) with each CCU and this Part, in addition:

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- c) The AAA's compliance review instrument shall address requirements as contained in the contract/grant with each CCU and in the applicable provisions of this Part and 89 Ill. Adm. Code 230, including, as a minimum, staffing requirements and qualifications, and adherence to the minimum standards contained in Section 220.600 of this Part.
- d) The Department's compliance review instrument shall address relevant requirements as contained in the contract with each CCU and in the applicable provisions of this Part and 89 Ill. Adm. Code 240, of this Part and 89 Ill. Adm. Code 240, and
- 2) the AAA's compliance review instrument shall address relevant requirements of this Part, Title III of the Older Americans Act, and 89 Ill. Adm. Code 230;
- e) The Department and AAA shall have the authority to conduct a review of a CCU agency at any time during the course of the CCU's contract or grant period, as appropriate, for the purpose of protecting the health, safety and welfare of the clients and ensuring CCU adherence to Department rules, and Department and AAA policies and procedures. The Department or the AAA shall notify the other party of any violations which could lead to contract sanctions or termination.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.665 Case Coordination Unit Compliance (Repealed)

- a) Case Coordination Units (CCUs) must comply with the Request for Proposal, Federal, State, and local laws, regulations and Department rules, policies and procedures.
- b) The Department and the Area Agency on Aging (AAA) shall determine compliance by performing compliance reviews in accordance with Section 220.660 of the CCUs contract/grant file records:
- 1) Files are maintained by the Department and the AAA, respectively, regarding quality of service provision, technical assistance and training provided, correspondence, and day-to-day CCU activity;
- 2) The respective CCU Compliance Review (CCUR) Reports are maintained and shared by the Department and the AAA and findings are acted upon as described in Section 220.670 and 89 Ill. Adm. Code 230.650 and 240.1720;
- 3) The Department and the AAA shall have the authority to conduct a review of a CCU at any time during the course of the CCU's contract or grant period, as appropriate, for the purpose of protecting the health, safety and welfare of the clients and ensuring CCU adherence to Department rules, policies and procedures.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

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Section 220.670 Sanctions for Case Coordination Unit Failure to Comply with Case Management Contract/Grant

a) Department or Area Agency on Aging (AAA) sanctions which shall be imposed upon any Case Coordination Unit (CCU) which fails to comply with applicable Federal, State and local laws or regulations and Department rules, policies and procedures and/or other contract requirements (which include the statements contained in the CCU's Proposal) include:

- 1) suspension of some or all payments;
- 2) mandatory training or technical assistance;
- 3) requiring a limited financial audit;
- 4) suspension (AAA action only);
- 5) prohibition of specified staff from serving CCP and/or Title III clients;
- 6) refusing to accept a proposal from a provider in one or more areas opened for procurement;
- 7) termination of contract/grant; and/or
- 8) taking any other action which the Director or AAA determines to be appropriate to the non-compliance circumstances.
- b) CCUs shall be advised by the Department or Area Agency on Aging (AAA) as appropriate, with a copy being provided to the other of contract/grant action(s) being taken as a result of non-compliance findings.
- c) Department or AAA termination of a CCU contract/grant shall be initiated by notice to the Department or the AAA, as appropriate, and to the affected CCU (by certified mail, return receipt requested) which shall include:
- 1) notice of the intent to terminate the specific CCU contract/grant;
- 2) notice of the Advisory Review procedure established in subsections (d) through (i) below; and
- 3) ten work day preliminary notice of the date, time and location of the Advisory Review Committee meeting.
- d) All recommendations of CCU contract/grant termination shall be reviewed by an Advisory Review Committee which shall be convened by the Department within ten work days following the date of the written notice of intent to terminate specified in subsection (c).
- 1) The Advisory Review Committee will make recommendation as to the appropriateness of the intent to terminate prior to the Department and AAA initiating any final action.
- 2) The Department and AAA shall not be bound by the recommendation of the Advisory Review Committee and may take action independent of that recommendation.
- e) The Advisory Review Committee shall be composed of the following, with each participant chosen from the respective constituent group:
- 1) three representatives from individual Area Agencies on Aging;
- 2) two representatives from individual Case Coordination Units;
- 3) one representative from a Community Care Program service vendor.

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(not-in-the-geographic-service-area-covered-by-the-CCU-under scrutiny)-and

- 4) one-representative-of-a-State-agency-
- 5) Each-representative-of-the-Advisory-Review-Committee-shall-be-free-of-any-conflict-of-interest;-they-shall-not-be-a-representative-of-the-AAA-or-CCU-involved-in-the-action-being-considered-nor-have-any-legal-or-organizational-association-with-the-AAA-or-CCU-involved;-nor-have-a contract/grant-in-the-particular-planning-and-service-area-
- 6) A-separate-Advisory-Review-Committee-shall-be-chosen-to-act-with-respect-to-each-specific-contract/grant-termination-action-
- 7) The-Department,-the-applicable-AAA-and-the-CCU-whose-contract/grant-is under-scrutiny-shall-have-the-opportunity-to-present-all-relevant information-for-consideration-by-the-Advisory-Review-Committee-
- 8) Recommendation-of-the-Advisory-Review-Committee-shall-be-provided-in writing--to--the-Department--and-AAA--within-fifteen--calendar-days following-the-date-of-the-Advisory-Review-Committee-meeting-
- 9) If--following-review-by-the-Advisory-Review-Committee--the--Department or--the-AAA-determines-that-termination-is-warranted--the-Department and-the-AAA-shall-jointly-provide-the-CCU-with-written-notice--of--the decision-to-terminate-the-CCU's-contract-by-certified-mail;-return receipt-requested--included-in-the-written-notification-of-termination shall-be-
- 1) the-effective-date-of-termination?
- 2) advisement-of-the-CCU's-right-to-appeal-the-termination-action-
- 3) Appeals-shall-be-addressed;-delivered-or-mailed-to:
Director
Attention:-General-Counsel
Illinois-Department-on-Aging
421-East-Capitol-Avenue
Springfield-Illinois-62701-
- 4) An-appeal-must-be-received-by-the-Department-on-or-before--the--tenth work--day-from-the-date-of-the-termination-notice-to-the-CCU-specified in-subsection-4)-above-
- 5) An-appeal-received-after-the-tenth-work-day--from-the-date--of--the termination-notice--to--the-CCU--as-evidenced-by-the-postal-return receipt-shall-be-denied-
- 6) The-appeal-shall-specify-the-appellant's-request-that--the-Department review--of--the-appeal-be-conducted-either--face-to-face--with-the appellant-or-through-a-paper--work--review--of--the--relevant documentation-
- 7) If--a--face-to-face-review-is-requested--a-hearing-shall-be conducted-in-accordance-with-provisions-of--Section--210-500--et seq-
- 8) If--a--paper--work-review-is-requested--the-General-Counsel-shall review-the-appeal-data-submitted-by-the-CCU-
- 9) At-the-conclusion-of-the-hearing-or--the--paper--work--review--a written-recommendation-shall-be-submitted-to-the-Director-
- 10) The-Director-shall-review-the-recommended-written-report-of-the-appeal

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and--make-a-final-administrative-decision-to-either-sustain-the-appeal of-the-CCU-or-uphold-the-action-of-the-Department-and-AAA-to-terminate the-contract/grant-

- 1) Reimburse-ments-determined-to-be-invalid-shall-be-vacated--and--the CCU-contract-shall-be-reinstated-
- 2) Reimburse-ments-determined-to-be-valid-shall-be-upheld-
- 3) The-Director-shall-provide-written-notice-to-the-CCU-by-certified mail;-return-receipt-requested;-of-the-final-administrative-decision resulting-from-the-appeal-with-a-copy-to-the-appropriate-AAA-

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 220.675 Sanction Notification and Case Coordination Unit Right to Appeal

- a) The Department shall provide prior notification to the applicable AAA, or the AAA shall provide prior notification to the Department, of any sanctions being taken against a CCU.
- b) The CCU shall be advised by the Department or AAA, as appropriate, (with a copy provided to the other) of any sanction(s) being taken. Notification to the CCU shall be sent registered mail, return receipt requested.
- c) If the CCU receives notification of termination of contract/grant, the CCU may appeal the action and request that the Department review of the appeal be conducted either face-to-face or through a paperwork review of the relevant documentation.
- d) All appeal requests must be made in accordance with Department appeal procedures which shall be included with the sanction notification.
- e) The Director shall review the recommended written report of the appeal and make a final administrative decision to either sustain the appeal of the CCU and reinstate the CCU contract/grant or uphold the action of the Department and AAA to terminate the contract/grant.
- 1) Written notification of the final administrative decision shall be provided to the CCU by registered mail, return receipt requested, with a copy provided to the appropriate AAA.
- 2) The decision of the Director is final.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 220 APPENDIX A Names and Addresses of Area Agencies on Aging by Planning and Service Area (Repealed)

AREA AREA-AGENCY-ON-AGING

01 Northwestern-Illinois-Area-Agency

4223-East-State-Street

Rockford-Illinois-61108

02 Region-Two-Area-Agency

P.O. Box 908

Kankakee-Illinois-60901

03 Western-Illinois-Area-Agency

4016-Ninth-Street

Rock-Island-Illinois-61301

04 Central-Illinois-Area-Agency

700-Hamilton-Boulevard

Peoria-Illinois-61603

05 East-Central-Illinois-Area-Agency

2714-McGraw-Drive

Bloomington-Illinois-61701

06 West-Central-Illinois-Area-Agency

1125-Hampshire-Street

P.O. Box 420

Quincy-Illinois-62301

07 Project-LIB-Area-Agency

2015-West-Washington-Street

Springfield-Illinois-62702

08 Southwestern-Illinois-Area-Agency

8787-State-Street

Edgemont-Building

East-St.-Louis-Illinois-62203

PLANNING-AND-SERVICE-AREA

Booner-Carroll-Berkley

Jo-Daviess-Leer-Ogle

Stephenson-Whiteside

Winnebago-Counties

BuPeger-Grundy-Kane

Kankakee-Kendall-Baker

McHenry-Will-Counties

Bureau-Henderson

Henry-Knox-Basler

McDonough-Mercer-Putnam

Rock-Island-Warren

Counties

Pulmon-Marshal-Peoria

Stark-Tazewell-Woodford

Counties

Champaign-Ciark-Coles

Cumberland-Bewitt

Pouglas-Edgar-Pond

Iroquois-Livingston

Macomb-McBee-Monitrie

Piatt-Sherby

Vermilion-Counties

Adams-Brown-Calhoun

Hancock-Pike

Schuyler-Counties

Cass-Christian

Greene-Jersey-Hogan

Macoupin-Mason

Menard-Montgomery

Morgan-Sangamon

Scott-Counties

Bond-Clinton

Madison-Monroe

Randolph-St.-Clair

Washington-Counties

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09 Midland-Area-Agency

P.O. Box 1420

Centraia-Illinois-62001

10 Southeastern-Illinois-Area-Agency

319A-Market-Street

Mt.-Carmel-Illinois-62863

11 Egyptian-Area-Agency

108-South-Division-Street

Easterville-Illinois-62910

12 Office-for-Senior-Citizens-and

Handicapped

510-North-Peshigo-Court

Chicago-Illinois-60611

13 Suburban-Cook-County-Area-Agency

400-West-Madison-Street-#200

Chicago-Illinois-60606

(Source: Repealed at 21 Ill. Reg.

effective

Clay-Effingham

Payette-Jefferson

Marion-Counties

Crawford-Edwards

Hamilton-Jasper

Lawrence-Richland

Webster-Wayne

White-Counties

Alexander-Franklin

Gallatin-Hardin

Jackson-Johnson-Massac

Perry-Pope-Putnam

Saline-Union

Williamson-Counties

City-of-Chicago

Suburban-Cook-County

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- 1) Heading of the Part: Older Americans Act Programs
- 2) Code Citation: 89 Ill. Adm. Code 230
- 3) Section Numbers:
230.610 Proposed Action:
230.650 Amendment
- 4) Statutory Authority: 20 ILCS 105/4.01(11) and 5.02
- 5) A Complete Description of the Subjects and Issues Involved: Rules are being amended in Part 230 to conform to citation changes made in Part 220.
- 6) Will this proposed rule replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written comments concerning this rulemaking, within 45 days after the date of this issue of the *Illinois Register*, to:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue #100
Springfield, Illinois 62701-1789
Attention: Case Coordination Unit Rulemaking
217/785-3346

In addition, the Department will accept oral and written testimony on the proposed amendments at a PUBLIC HEARING which will be held on the date, location and time specified:

Date: September 4, 1997 (Thursday)
Location: Illinois Department of Agriculture Building
Illinois State Fairgrounds (8th and Sangamon
Avenue - entrance)

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Auditorium - Main Floor
Springfield, Illinois

Time: 1:30 pm to 3:00 pm

If special accommodations/provisions for the Hearing are required, such as a hearing interpreter, please contact the Senior Helpline at 1-800-252-8966 (voice and TTY), no later than August 26, 1997.

The rule amendments will have an impact on small businesses. In accordance with Sections 1-20 and 5-20 of the Illinois Administrative Procedure Act, any small business may present their comments to Ms. Pamela W. Balmer, at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on the rule amendment shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Current Case Coordination Units and those small businesses which choose to participate in the Case Coordination Unit procurement process.

B) Reporting, bookkeeping or other procedures required for compliance: No change from current Department requirements.

C) Types of professional skills necessary for compliance: No change from current Department requirements.

13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 230

OLDER AMERICANS ACT PROGRAMS

SUBPART A: STATE AGENCY

Section
230.10 Designation and Function
230.20 Administration
230.30 State Plan
230.40 State Agency Requirements
230.41 Advocacy
230.42 Long-Term Care Ombudsman Program (Repealed)
230.43 Service Delivery Systems Responsibilities
230.44 State Advisory Council
230.45 Intrastate Funding Formula
230.46 Hearings
230.47 Designation of Planning and Service Areas

SUBPART B: AREA AGENCIES ON AGING

Section
230.110 Designation and Function
230.120 Administration
230.130 Area Plans
230.140 Withdrawal of Area Agency on Aging Designation
230.145 Continuity of Services
230.150 Area Agency on Aging Responsibilities

SUBPART C: SERVICE REQUIREMENTS

Section
230.210 Direct Provision of Services by the Department and Area Agencies on Aging
230.220 Planning, Coordination and Provision of Services Funded Under Other Programs
230.230 Licensure and Safety Requirements
230.240 Provider Requirements
230.250 Services

SUBPART D: FISCAL REQUIREMENTS

Section
230.310 Types of Allotments
230.320 Limitations on Use
230.330 Service Funding Requirements

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230.340 Obligation of Allotments
230.350 Maintenance of Effort: Non-Federal Share
230.360 General Audit Requirements
230.361 Purpose of Audits
230.362 Audit Engagement Agreement
230.363 Distribution of the Cost of a Unified Audit
230.364 Scope of the Financial and Compliance Audit (Repealed)
230.365 Audit Report
230.366 Resolution of Audit Findings
230.370 Program and Financial Reviews

SUBPART E: HEARINGS

Section
230.410 Hearing Before the Department
230.420 Hearing Before the Area Agency on Aging
230.430 Non-applicability of Hearing Requirements
230.440 Arrangements for Hearings

SUBPART F: TITLE III-D

Section
230.510 Target Population
230.520 Eligibility Criteria
230.530 Eligibility Determination
230.540 Allowable Services
230.550 Maintenance of Effort
230.560 Coordination of Services
230.570 Distribution of Funds
230.580 Area Agency on Aging Administration

SUBPART G: CASE MANAGEMENT SERVICES

Section
230.610 General Requirements for Providers of Case Management Services
230.620 Case Management Service Availability
230.630 Service Activities
230.640 Records and Documentation
230.650 Case Coordination Unit Compliance During Contract/Grant Period

AUTHORITY: Implementing the Illinois Act on the Aging [20 ILCS 105] and the Older Americans Act, as amended (42 U.S.C. 3001 et seq.) and authorized by Section 4.01 of the Illinois Act on the Aging [20 ILCS 105/4.01].

SOURCE: Adopted at 5 Ill. Reg. 3722, effective March 31, 1981; amended at 6 Ill. Reg. 7379, effective June 16, 1982; codified at 7 Ill. Reg. 5178; amended at 7 Ill. Reg. 9132, effective July 27, 1983; amended at 8 Ill. Reg. 9330, effective June 15, 1984; amended at 9 Ill. Reg. 5297, effective April 8, 1985;

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amended at 10 Ill. Reg. 5787, effective March 27, 1986; recodified at 10 Ill. Reg. 7653, effective April 30, 1986; amended at 10 Ill. Reg. 14616, effective August 26, 1986; amended at 11 Ill. Reg. 3856, effective February 17, 1987; amended at 11 Ill. Reg. 7586, effective April 8, 1987; amended at 11 Ill. Reg. 15869, effective October 1, 1987; emergency amendments at 12 Ill. Reg. 12540, effective July 15, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 13 Ill. Reg. 2015, effective February 1, 1989; amended at 13 Ill. Reg. 3054, effective March 1, 1989; amended at 13 Ill. Reg. 20299, effective December 15, 1989; amended at 14 Ill. Reg. 2308, effective January 25, 1990; amended at 15 Ill. Reg. 18642, effective December 13, 1991; amended at 16 Ill. Reg. 15401, effective September 28, 1992; amended at 18 Ill. Reg. 14072, effective September 1, 1994; amended at 21 Ill. Reg. 8894, effective July 1, 1997; amended at 21 Ill. Reg. _____, effective _____.

SUBPART G: CASE MANAGEMENT SERVICES

Section 230.610 General Requirements for Providers of Case Management Services

- a) An agency providing Title III case management services shall meet all Case Coordination Unit (CCU) Standards pursuant to 89 Ill. Adm. Code 220.600 et seq. upon completion of the procurement as specified in 89 Ill. Adm. Code 220.610 220-615.
- b) A CCU, designated as outlined in 89 Ill. Adm. Code 220.645, shall be funded by the Area Agency on Aging (AAA) for a specific geographic area through a contract or a grant with the AAA for Title III case management services.
- c) A designated CCU shall provide audits in accordance with Area Agency on Aging policies and procedures.
- d) A CCU shall permit access to case files by the Area Agency on Aging or its designee, the Department or its designee, and appropriate Federal agencies. The Department shall notify the AAA when access to Title III case management case files by the Department and/or appropriate Federal agencies is required.
- e) An individual AAA may establish additional requirements higher standards than those specified in 89 Ill. Adm. Code 220.600(e)(4) through (k)(4) relative to any contract/grant for case management services provided in its respective planning and service area. Such additional requirements higher-standards shall be specified in the particular AAA's Request for Proposal and shall bear no additional cost to the Department or to recipients of services. AAAs shall arrange for funding for such additional requirements higher standards.
- f) Additional services, if required by a particular AAA to be provided through a case management contract/grant, shall be directly related to case management services as defined in 89 Ill. Adm. Code 220.600(b) (e.g., Information and Assistance Referral, Outreach, Ombudsman, Elder Abuse) and shall be specified in the particular AAA's Request for

DEPARTMENT ON AGING

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Proposal.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 230.650 Case Coordination Unit Compliance During Contract/Grant Period

- a) Each Case Coordination Unit (CCU) receiving a contract/grant from an Area Agency on Aging (AAA) must comply with Federal, State and local laws, regulations and Department rules, policies and procedures.
- b) The AAA shall have the authority to conduct a an-Administrative Compliance Review of a CCU at any time during the course of the CCU's contract/grant period for the purpose of protecting the health, safety and welfare of case management clients.
- c) The AAA shall conduct a an-Administrative Compliance Review in accordance with procedures established by the particular AAA pursuant to 89 Ill. Adm. Code Section 220.660 to ensure statewide continuity. Administrative Compliance Reviews shall be conducted no less frequently than one review during each funded period.
- d) Records of a an-Administrative Compliance Review compliance-review conducted by the AAA shall be maintained by the AAA and corrective action(s), if indicated, shall be taken in accordance with established AAA policy and as described in 89 Ill. Adm. Code Section 220.670 and 220.675.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Pay Plan

2) Code Citation: 80 Ill. Adm. Code 310

3) Section Numbers: Proposed Action:
 310.110 Amended
 310.130 Amended
 310.290 Amended
 310.450 Amended
 310.530 Amended
 310.540 Amended
 310. Appendix B Amended
 310. Appendix C Amended
 310. Appendix D Amended
 310. Appendix G Amended

4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

5) A Complete Description of the Subjects and Issues Involved:

In Sections 310.110, 310.130, 310.290, 310.530, 310.540, 310. Appendices B, C, D and G, the dates are being revised to reflect the new fiscal year. The salary ranges will not be amended for the Out-of-State or Foreign Service Rates, Medical Administrator Rates, Merit Compensation System Salary Schedule and Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 1998.

The Schedule of Salary Grades will reflect an alternative schedule with a 3% increase for those employees whose retirement formula rates were not changed in Section 310.110. Those employees whose retirement formula rates were changed shall receive a one-time lump sum payment of \$565.00. The salary ranges will not be amended in Appendix B for Fiscal Year 1998 for those employees receiving the one-time lump sum payment.

Section 310.450 is being revised to reflect that the merit increases are suspended for Merit Compensation employees, except those employees who are subject to the alternative retirement formula. The former merit increase guideline is being deleted since it will not be used for Fiscal Year 1998.

In Sections 310.530 and 310.540, modifications to the Pay Plan reflect suspension of any merit increases for Merit Compensation employees except for those employees subject to the alternative retirement formula whose retirement formula rates were not changed. Employees whose merit increases have been suspended shall receive a one-time lump sum payment of \$565.00, except that those employees on emergency or temporary appointment, and those employees who work less than 75% of the regular

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

work schedule, will have the \$565.00 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit.

The Merit Compensation employees whose retirement formula rates were not changed shall not have their merit increases suspended for Fiscal Year 1998. An Alternative Merit Increase Guidechart is being added to Section 310.540 for these employees.

6) Will this proposed rule replace an emergency rule currently in effect?
 Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain any incorporations by reference? No

9) Are there any proposed amendments pending to this Part? No

10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
 Department of Central Management Services
 Division of Technical Services
 504 William G. Stratton Building
 Springfield, IL 62706
 (217) 782-5601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities, and not for profit corporations affected: None. The Department of Central Management Services Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance:
 None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the proposed amendment(s) are identical to the text of the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

emergency amendments which begins on page 1013

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Uniform System of Accounts for Electric Utilities

2) Code Citation: 83 Ill. Adm. Code 415

3) Section Numbers: Proposed Action:
415.10 Amendment
415.20 Amendment
415.210 Amendment
415.410 Amendment

4) Statutory Authority: Implementing Sections 5-102 and 5-103 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102, 5-103, and 10-101].

5) A Complete Description of the Subjects and Issues Involved: The Commission has adopted 83 Ill. Adm. Code 415, "Uniform System of Accounts for Electric Utilities", as its system of accounts for those electric utilities under its jurisdiction. Part 415 incorporates by reference 18 CFR 101 with certain specified additions and deletions and 18 CFR 116. The purpose in amending Part 415 is to incorporate 18 CFR 101 and 116 as of February 11, 1997, which are available in an electronic format, and to make two minor housekeeping changes. The current Part 415 incorporates 18 CFR 101 and 116 as of April 1, 1993, which is not available in an electronic format.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any state mandate on units of local government, school districts, or community college districts.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Comments should be filed with:

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280

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NOTICE OF PROPOSED AMENDMENTS

Comments should be filed with the Chief Clerk within 45 days of the date of this issue of the *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping
 - C) Types of professional skills necessary for compliance: Accounting
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1997

The full text of the proposed amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION
NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 415
UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC UTILITIES
SUBPART A: GENERAL PROVISIONS AND ADOPTION OF
CFR PROVISIONS BY REFERENCE

- | | |
|---------|-------------------------------------|
| Section | |
| 415.10 | Adoption of 18 CFR 101 by Reference |
| 415.20 | Adoption of 18 CFR 116 by Reference |

SUBPART B: ADDITIONS TO AND DELETIONS FROM CFR PROVISIONS

- | | |
|----------|---|
| Section | |
| 415.200 | Definitions |
| 415.210 | General Instruction 1 |
| 415.250 | General Instruction 5 |
| 415.270 | General Instruction 7 |
| 415.280 | General Instruction 7.1 |
| 415.330 | General Instruction 12 (Repealed) |
| 415.340 | General Instruction 13 |
| 415.380 | General Instruction 17 |
| 415.390 | General Instruction 18 |
| 415.410 | General Instruction 20 |
| 415.411 | General Instruction 21 |
| 415.420 | Electric Plant Instruction 2 |
| 415.430 | Electric Plant Instruction 3 |
| 415.450 | Electric Plant Instruction 5 |
| 415.470 | Electric Plant Instruction 7 |
| 415.500 | Electric Plant Instruction 10 |
| 415.940 | Income Chart of Accounts |
| 415.970 | Operation and Maintenance Expense Chart of Accounts |
| 415.1020 | Account 102 |
| 415.1050 | Account 105 |
| 415.1080 | Account 108 |
| 415.4118 | Account 411.8 |
| 415.4119 | Account 411.9 |
| 415.4160 | Account 416 |
| 415.4261 | Account 426.1 |
| 415.4390 | Account 439 |
| 415.5180 | Account 518 |
| 415.9140 | Accounts 914 and 915 |
| 415.9302 | Account 930.2 |

APPENDIX G Operation and Maintenance Expense Accounts

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

EXHIBIT A Accounts 914 and 915

AUTHORITY: Implementing Sections 5-102 and 5-103 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102, 5-103 and 10-101].

SOURCE: Adopted July 14, 1960, effective January 1, 1962; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 160, effective January 1, 1984; amended at 9 Ill. Reg. 4016, effective April 1, 1985; amended at 9 Ill. Reg. 13079, effective August 15, 1985; amended at 12 Ill. Reg. 11710, effective July 15, 1988; amended at 18 Ill. Reg. 10692, effective July 1, 1994; amended at 18 Ill. Reg. 17996, effective December 15, 1994; amended at 21 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS AND ADOPTION OF
CFR PROVISIONS BY REFERENCE

Section 415.10 Adoption of 18 CFR 101 by Reference

The Illinois Commerce Commission ("Commission") adopts 18 CFR 101, as of February 11, 1997, ~~April 17, 1993~~ as its uniform system of accounts for electric utilities, subject to the exceptions set forth in Section 415.200 et seq. of this Part. No incorporation in this Part includes any later amendment or edition.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 415.20 Adoption of 18 CFR 116 by Reference

The Illinois Commerce Commission adopts 18 CFR 116, as of February 11, 1997 ~~April 17, 1993~~, as its prescription of units of property for use in accounting for additions to and retirements of electric plant. No incorporation in this Part includes any later amendment or edition.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART B: ADDITIONS TO AND DELETIONS FROM CFR PROVISIONS

Section 415.210 General Instruction 1

General Instruction 1, "Classification of Utilities," is deleted and replaced by the following:

"A. This system of accounts applies to all utilities; provided, however, if in the opinion of any utility having annual operating revenues of less than \$10,000,000, this system of accounts should prove to be unduly burdensome, such utility may, with the approval of the Director of Accounting of the Commission, group or combine certain accounts

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NOTICE OF PROPOSED AMENDMENTS

herein in order that the accounting requirements for small utilities may conform more nearly to the nature and volume of business transacted. Requests to group or combine accounts shall be made in writing, including a statement of the proposed modifications. In determining whether this system of accounts is unduly burdensome with respect to a utility, the Director of Accounting shall consider, among other things, whether compliance will require additional resources ~~personnel or additional office equipment, such as electronic data processing equipment~~. The Director of Accounting shall make this determination within six months of receiving the written request. Having obtained such approval, the utility shall continue to use the system as modified on a consistent basis.

B. For purposes of implementation, all electric utilities subject to Illinois Commerce Commission jurisdiction shall be regarded as "major" utilities. Account designations, instructions, interpretations, and references to "nonmajor" utilities will not apply.

C. The Commission does not commit itself to the approval or acceptance of any item set out in any account, for the purpose of fixing rates or in determining other matters before the Commission."

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 415.410 General Instruction 20

In General Instruction 20, "Accounting for leases" in paragraph A, second sentence the phrase which reads "is effective January 1, 1984" is replaced with "was effective August 15, 1985" ~~deleted~~. In the third sentence of this paragraph, the phrase "reporting to the FERC," is amended to read "reporting to the Commission."

(Source: Amended at 21 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program

- 2) Code Citation: 35 Ill. Adm. Code 663

- 3) Section Numbers: Proposed Action:

663.110	New Section
663.120	New Section
663.130	New Section
663.140	New Section
663.150	New Section
663.160	New Section
663.210	New Section
663.220	New Section
663.230	New Section
663.240	New Section
663.250	New Section
663.260	New Section
663.270	New Section
663.Appendix A	New Section

- 4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.8 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 - 19.8].

- 5) A Complete Description of the Subjects and Issues Involved: The 1996 Amendments to the federal Safe Drinking Water Act, 42 U.S.C. 300j, establish a program of federal grant awards to the states to provide low interest loan assistance to local government units to construct and upgrade their public water supplies to bring them into compliance with State and federal drinking water requirements. The General Assembly has established the Public Water Supply Loan Program to allow the State of Illinois to take advantage of the federal grant funds, and has designated the Illinois Environmental Protection Agency as the administering agency [415 ILCS 5/19.1 through 19.8]. This Part 663 sets out the scoring criteria and methodology the Agency will follow in establishing the priority of projects to be funded under the PWSLP. Part 662 of the proposed rules set out the procedures that the Agency will follow in administering the PWSLP.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? Yes. The proposal contains 1 incorporation by reference.

ENVIRONMENTAL PROTECTION AGENCY

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- 9) Are there other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the States Mandate Act [30 ILCS 805/3]. These proposed rules are consistent with the policy objectives set out in Title IV-A of the Environmental Protection Act [415 ILCS 5/19.1].

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Ron Drainer, Manager
Infrastructure Financial Assistance
Bureau of Water
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield IL 62794-9276
(217) 782-2027

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The Public Water Supply Loan Program is presently limited to units of local government, including small municipalities. This rulemaking will affect small municipalities who need financial assistance in order to bring their public water supplies into compliance with State and Federal requirements.

- B) Reporting, bookkeeping and other procedures required for compliance: This rulemaking will not require additional reporting, bookkeeping or other procedures not already required by previously established State and federal regulations.

- C) Types of professional skills necessary for compliance: No additional professional skills are required by this rulemaking.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Rules begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE F: PUBLIC WATER SUPPLIES
 CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 663

PROCEDURES AND REQUIREMENTS FOR DETERMINING LOAN
 PRIORITIES OF PROJECTS IN THE PUBLIC WATER SUPPLY LOAN PROGRAM

SUBPART A: INTRODUCTION

Section

663.110

Purpose

663.120

Definitions

663.130

Incorporation by Reference

663.140

Priority System and Project Priority List

663.150

Pre-applications

663.160

Project Planning

SUBPART B: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX

Section

663.210

Formula for Computing the Loan Priority Index

663.220

A1 Factor (Population)

663.230

A2 Factor (Project Need)

663.240

A3 Factor (Financial Hardship)

663.250

A4 Factor (Source Water Protection)

663.260

A5 (Small Public Water Systems)

663.270

Scoring Conventions

APPENDIX A

Service Continuation Scoring Sheet

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.8 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

SOURCE: Adopted at 21 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 663.110 Purpose

This Part sets forth the procedures and requirements established by the Illinois Environmental Protection Agency (Agency) for determining priorities in awarding financial assistance for the construction of public water supply facilities under the Environmental Protection Act (the Act) [415 ILCS 5] and the federal Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300f).

Section 663.120 Definitions

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- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act [415 ILCS 5], the federal Safe Drinking Water Act (42 U.S.C. 300f) and regulations adopted under these Acts, including 35 Ill. Adm. Code: Subtitle F, Part 662.
- b) For purposes of this Part, the following definitions apply:

"Acute Violation" -- Exceedance of a maximum contaminant level (MCL) or treatment technique requirement for a contaminant that would cause an acute health effect with a sudden onset, sharp rise and short course of illness as provided in the National Primary Drinking Water Rules (40 CFR 141.32).

"Agency" -- Illinois Environmental Protection Agency.

"Chronic Violation" -- Exceedance of an MCL or treatment technique requirement for a contaminant that would cause a health effect of a chronic nature requiring a long exposure to the contaminant before effects occur, as provided in National Primary Drinking Water Regulations (40 CFR 141.32).

"Fund" -- The Water Revolving Fund authorized by 415 ILCS 5/19.3, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program and the Loan Support Program.

"Health Hazard Determination" -- A Health Hazard Determination exists when concentrations of regulated contaminants, in a water supply, or concentrations of contaminants not otherwise regulated, exceed health effects standards published in U.S. Environmental Protection Agency (USEPA) Health Advisories, or by the Illinois Department of Public Health or by the U. S. Centers for Disease Control or which otherwise pose an immediate threat to public health.

"Intended Use Plan" -- A plan which includes a description of the short and long term goals and objectives of the FWSLP, project categories, terms of financial assistance, communities and populations benefitted. [415 ILCS 5/19.2(e)]

"Local Government Unit" -- A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both. [415 ILCS 5/19.2(g)]

"Maximum Contaminant Level" (MCL) -- The maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

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"Monthly Operating Reports" -- Reports submitted monthly by public water supplies that report on the operation of the water supply, including water pumpage, chemical additions, chemical residuals and maintenance.

"PWSLP" -- The Public Water Supply Loan Program as authorized by 415 ILCS 5/19.1 through 19.8.

"Priority System" -- A methodology used to rank projects for inclusion on the Project Priority List.

"Project Priority List" -- An ordered listing of projects developed in accordance with this Part 663 which the Agency has determined are eligible to receive financial assistance from the PWSLP.

"SDWA" -- The federal Safe Drinking Water Act, 42 U.S.C. 300f.

"Treatment Technique Requirement" -- An enforceable procedure developed by USEPA when it is not economically or technologically feasible to ascertain the level of a contaminant. Public water supplies must follow this procedure and treat their drinking water supplies according to USEPA specifications to ensure the contaminant is controlled.

"Wellhead Protection Program" -- The wellhead protection program for the State of Illinois, approved by the USEPA under Section 1428 of the federal SDWA (42 U.S.C. 300h-7).

Section 663.130 Incorporation by Reference

U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census: 1990 Census Population and Housing: Summary Social, Economic, and Housing Characteristics, Illinois, Table 9, 1990 CPH-5-15 (no later editions or amendments).

Section 663.140 Priority System and Project Priority List

- a) Financial assistance will be provided from the PWSLP only to projects which are identified on the Project Priority List.
- b) Projects will be ranked for inclusion on the Project Priority List using the methodology set out in Subpart B of this Part.
- c) The Agency will provide the list to individual members of the public upon request. All public comments received will be taken into account in establishing the Project Priority List.
- d) A project with approved project planning may be added to the Project Priority List at any time by the submission of a pre-application.

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Section 663.150 Pre-applications

- a) A local government unit may submit a pre-application at any time. The pre-application must provide the reason for the project, the scope of the project, the population to be served by the project, a cost estimate and a schedule for completion of the project.
- b) An applicant is required to renew its pre-application annually.
- c) Pre-applications must be received by March 31 of the preceding fiscal year to be included on the Project Priority List and on the Intended Use Plan.

Section 663.160 Project Planning

- a) The priority of projects on the Project Priority List will be adjusted to reflect completed and approved project planning.
- b) Projects on the Project Priority List may be split into more than one project, deleted or modified as a result of the approval of the project planning (see 35 Ill. Adm. Code 662: Subpart E).

SUBPART B: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX**Section 663.210 Formula for Computing the Loan Priority Index**

The Loan Priority Index (LPI) is a number that is calculated from five factors. The LPI is calculated as follows: $(A1 \times A2) + A3 + A4 + A5 = LPI$.

Section 663.220 A1 Factor (Population)

A1 is a factor which evaluates the existing population that is served by the proposed project. A1 is calculated as log base 10 of the number of persons served by the project, with a maximum value of 5.30 points. The applicant shall provide the population served figure, which the Agency will verify from its records.

Section 663.230 A2 Factor (Project Need)

A2 is a factor that evaluates and quantifies eligible drinking water needs associated with a proposed project. The need for the proposed projects will be quantified by using the most appropriate of the following methodologies:

- a) For projects that meet the Health Hazard Determination criteria set out in Section 663.120, the A2 score will be 100 points.
- b) For projects that will correct violations of the Safe Drinking Water Act determined through compliance monitoring, points will be awarded based on the seriousness of the violations that make the project necessary. The violations will be quantified from the applicant's Monthly Operating Reports. The values for the violations are as follows:

- 1) Acute Violation 75 points;

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- 2) Chronic Violation 50 points.
- For projects that will prevent future acute or chronic violations and address a need that has been demonstrated by compliance monitoring, Section 663.260 allows for assigning a portion of the acute and chronic violation points for priority scoring purposes.
- c) For projects that will correct violations of the State's protection of public health rules regarding adequate pressure, transmission, and storage of drinking water, as contained in 35 Ill. Adm. Code 653, and evidenced by an Agency issued notice of violation, the initial A2 value will be 20 points. This value will be augmented by the points assigned from the Service Continuation Scoring Sheet (Appendix A) based on information contained in the approved project planning report and Agency inspection.
- d) For projects that will correct violations of the State's protection of public health rules regarding adequate pressure, transmission, and storage of drinking water, as contained in 35 Ill. Adm. Code 653, and evidenced by an Agency issued notice of violation, Agency field inspection report or Agency approved project planning, the A2 factor value will be 25 points.
- e) Renovation, repair, reconstruction or replacement of facilities to maintain the safe and adequate water supply capabilities for which they were designed and to enable their continued service will be scored by completion of the Service Continuation Scoring Sheet (Appendix A). The assigned values which will be based on information contained in the approved project planning report and Agency inspection will be used as the A2 factor in the LPI calculation up to a maximum of 20 points.

Section 663.240 A3 Factor (Financial Hardship)

A3 is a factor which adds points for applicants that have a higher rate of unemployment than the State average, and includes points for the percentage of persons in poverty. The A3 factor is calculated by adding the unemployment percentage points to the persons in poverty points from the following tables:

Percentage Above State Average Unemployment Rate

<u>Percentage</u>	<u>Points</u>
0.1 - 2.0	1.25
2.1 - 4.0	2.50
4.1 - 6.0	3.75
6.1 and above	5.00

Percentage of Persons in Poverty

<u>Percentage</u>	<u>Points</u>
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5.0 - 10.0	1.00
10.1 - 15.0	2.00
15.1 - 20.0	3.00
20.1 - 25.0	4.00
25.1 and above	5.00

Section 663.250 A4 Factor (Source Water Protection)

A4 is a factor that adds points for applicants that have taken specific steps to protect their source water or have incorporated water conservation measures in their approved project planning report. These points will be awarded by the Agency for the program elements as follows:

- a) Communities that have incorporated water conservation measures as a cost-effective alternative to additional capacity. 1.0 point
- b) Communities that have committed to the Agency to develop source water protection programs through one of the following mechanisms: 0.5 point
- 1) Consent decree or compliance initiative agreement;
 - 2) Federal Safe Drinking Water Act Monitoring Waiver Program as described in 35 Ill. Adm. Code 611.110(e); or
 - 3) Written commitment to pursue wellhead protection program.
- c) Communities that have delineated their source water protection areas by one of the following mapping techniques: 0.5
- 1) For surface water sources: An Agency approved delineation of the watershed boundary;
 - 2) For groundwater sources: An Agency approved delineation of the recharge area.
- d) An Agency approved inventory of potential point sources of contamination. 0.5 point
- e) For completion of a contingency plan as described in Sections 1413(a)(5) and 1428(a)(5) of the federal Safe Drinking Water Act (42 U.S.C. 300g and 300h-7). 0.5 point

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- f) For development of a Management Program for source water protection as described in the State Source Water Assessment and Protection Guidance prepared by USEPA pursuant to Section 1453 of the federal Safe Drinking Water Act (42 U.S.C. 300j-13). 1.0 point

Section 663.260 A5 Factor (Small Public Water Systems)

A5 is a factor that provides a five point bonus to public water systems serving populations of less than 10,000.

Section 663.270 Scoring Conventions

- a) For purposes of assigning the A2 factor, projects that are being proposed to meet regulations that have been published in the Federal Register but have a future effective date will be considered the same as projects to correct violations of regulations that are already in effect.
- b) Projects that are being proposed to prevent future acute or chronic violations predicted by compliance monitoring are eligible for A2 factor points as follows:
- 1) The applicant's compliance monitoring records must show concentrations of the contaminant to be controlled of at least 75% of the acute or chronic violation limit (existing contaminant concentration divided by acute/chronic limit $\times 100 = \%$ violation limit);
 - 2) The A2 points for the project will be calculated by multiplying the percentage violation limit by the appropriate acute or chronic A2 points in Section 663.230(b).
- c) For integrally related projects which require construction by more than one local government unit, each project will proceed at the Loan Priority Index of the component project with the most favorable priority ranking.
- d) Where adequate data is not available to calculate an A2 factor, a value of 1.0 will be assigned to allow completion of a multiplicative calculation.

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Section 663.270 Appendix A Service Continuation Scoring Sheet**SERVICE CONTINUATION SCORING SHEET****Scoring Elements****Points****I. Raw Water Source****A. Groundwater**

1. Is source adequate to meet maximum average daily demand with the largest well out of service? Yes ___/No _____. (If no, score 3 points for <75% of maximum average daily demand, 2 points for 75% to 90% of maximum average daily demand, or 1 point for 90% to 99% of maximum average daily demand.) _____
2. What is the average age of the wells? _____ years. (Score 1 point if over 20 years, score 2 points if over 30 years.) _____
3. Are there any well casing defects (i.e., not 18 inches above ground level, leaking or deteriorating casing, improper casing material, etc.)? Yes ___/No _____. (If yes, score 1 point for each defect, maximum 2 points.) _____
4. Are there any potential sources of contamination within the setback zone or well recharge area? Yes ___/No _____. How many potential sources? _____ (Score 1 point for each potential source, maximum of 2 points.) _____
5. Have any aesthetic problems caused by secondary MCL exceedances been documented (i.e., iron, manganese, hardness, total dissolved solids, etc.)? Yes ___/No _____. (Score 1 point if yes.) _____
6. Is the raw water metered? Yes ___/No _____. (Score 1 points if water is un-metered.) _____
7. Are there any wells under the direct influence of surface water? Yes ___/No _____. (Score 3 points if any well is under the direct influence of surface water.) (If surface water type treatment is provided, do not score this point.) _____

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8. Were there any well pump failures during the last five years? Yes ___/No ___. (Score 1 point if 2 or more failures, 2 points if 5 or more failures.) _____
9. Are any of the wells in below grade pits? Yes ___/No ___. (Score 1 point for each well in a pit, maximum 2 points.) _____
10. Are there any customers on the raw water transmission line that do not receive fully treated water? Yes ___/No ___. (If yes, score 1 point for a limited number and 2 points for a significant number.) _____

Total Raw Groundwater Source Points _____

B. Surface Water Source

1. Is the raw source adequate for maximum seasonal demand? Yes ___/No ___. Is the raw source adequate for an extended drought? Yes ___/No ___. (If inadequate for extended drought score 1 point, if inadequate for maximum seasonal demand score 3 points.) _____
2. Does the raw water meet raw water quality requirements? Yes ___/No ___. Is there SOC contamination? Yes ___/No ___. NO3 contamination? Yes ___/No ___. (If yes to either question, score 2 points.) _____
3. Is there deterioration of concrete structures? Yes ___/No ___. (If yes, score 1 point if structures are deteriorated, 3 points if deterioration threatens continued operation.) _____
4. Are raw water pumps adequate to meet maximum average daily demand with the largest pump out of service? Yes ___/No ___. (If no, score 3 points for <75% of maximum daily use, 2 points for 75% to 90% of maximum average daily use, or 1 point for 90% to 99% of maximum average daily demand.) _____
5. Are the pumps in good condition? Yes ___/No ___. (Score 1 point for no.) _____

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6. Are raw water pumps protected from flooding? Yes ___/No ___. (Score 1 points for no.) _____
7. Can raw water be selected from multiple intake levels? Yes ___/No ___. (Score 1 point for no.) _____
8. Is the raw water transmission line sized to provide adequate raw water for both current and projected future demands? Yes ___/No ___. (Score 1 point for future inadequacy, 2 points for current inadequacy.) _____
9. Are there any customers that receive untreated water from the transmission line? Yes ___/No ___. (Score 1 point for yes.) _____
10. Are there alternate sources of raw water? Yes ___/No ___. Are there alternate sources of finished water? Yes ___/No ___. (If both answers no, score 2 points.) _____
11. Does the reservoir have a siltation problem that requires periodic dredging? Yes ___/No ___. (Score 1 point if yes.) _____

Total Raw Surface Water Source Points _____

II. Water Treatment Plant

1. What is the age of the treatment facilities since last upgrade? ___ years. (Score 1 point if over 10 years old, 2 points if over 20 years old and 3 points for over 40 years old.) _____
2. Is the treatment plant capacity adequate to meet maximum average daily demand? Yes ___/No ___. (Score 2 points for <75% of demand or 1 point for 75% to 99% of demand.) _____
3. List the number of water outages during the last 5 years caused by treatment plant mechanical failures that resulted in a boil order being issued. ___ outages. (Score 1 point for each outage up to 4.) _____
4. Is there corrosion of the metal structures to be replaced or renovated? Yes ___/No _____

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_____. (If yes, score 1 point if metal structure is rusting and pitted, score 2 points if structure is leaking, and 3 points if corrosion threatens continued operation of the facility.)

5. Is there deterioration of concrete structures? Yes ___/No _____. (If yes, score 1 point if structure is deteriorated, 3 points if deterioration threatens continued operation.)

6. Is backup equipment available so that equipment maintenance can be performed without stopping operation? Yes ___/No _____. (If no, score 1 point if equipment to have maintenance can be by-passed, 2 points if equipment to have maintenance cannot be by-passed.)

7. Is existing treatment capable of continuously providing water that complies with primary and secondary MCLs and health advisories? Yes ___/No _____. (If no, score 1 point for secondary MCL and 2 points for primary MCL or health advisory.)

8. Is required safety equipment such as rubber gloves, goggles and air packs available and in good repair and are water supply personnel trained in the proper use of the equipment? Yes ___/No _____. (Score 1 point if equipment not available or staff not trained.)

Total Water Treatment Plant Points

III. Distribution System

1. Are there any undersized water mains? Yes ___/No _____. (If yes, score 1 point for limited number of undersized mains and 2 points for significant number of undersized mains.)

2. Are mains looped and dead ends minimized? Yes ___/No _____. (If no, score 1 point.)

3. What is the per cent of unaccounted for water? ____%. (If over 10%, score 1 point; if over 20%, score 2 points.)

4. Is there an accurate up-to-date map to locate

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mains, valves and service taps? Yes ___/No _____. (If no, score 1 point.)

5. Is adequate distribution pressure maintained in all parts of the system under all conditions? Yes ___/No _____. (If no, score 1 point for localized low pressure area, 2 points if widespread low pressure.)

6. Is there an adequate number of valves to isolate main breaks and do the valves function properly? Yes ___/No _____. (If no, score 1 point.)

7. Are all mains constructed of approved materials? Yes ___/No _____. (If no, score 1 point.)

8. Are there any lead pigtaills or service lines? Yes ___/No _____. (If yes, score 1 point.)

9. How many water main breaks have occurred in the past 5 years? (Score 1 point for 5 or more and 2 points for 10 or more.)

10. Is there a proper separation between all water mains and sources of contamination? (Storm sewers, sanitary sewers, septic tanks and leaching fields, etc.) Yes ___/No _____. (If no, score 1 point for minor violation and 2 points for major violation.)

11. How old are the water mains for the planned project? _____ years. (Score 1 point if over 30 years old, 2 points if over 40 years old.)

12. Are all services metered? Yes ___/No _____. (If no, score 1 point.)

13. Have there been an excessive number of aesthetic complaints (color, taste, odor, etc.) from the distribution systems? Yes ___/No _____. (If yes, score 1 point.)

14. Does each customer have an individual service connection? Yes ___/No _____. (If no, score 1 point.)

Total Distribution System Points

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IV. Finished Water Storage

1. Is the total amount of storage adequate? Yes ___/No ___. (If no, score 3 points if storage is <50% adequate, 2 points if storage is 50% to 75% adequate, and 1 point if storage is 75% to 99% adequate.)
2. Are manholes properly constructed and secured? Yes ___/No ___. (If no, score 1 point for each improperly constructed/secured facility, maximum 2 points.)
3. What is the age of the affected water storage facility? ___ years. (Score 1 point for over 20 years old, 2 points for over 30 years old.)
4. Are vents and overflows properly constructed and screened? Yes ___/No ___. (If no, score up to 1 point.)
5. Is there corrosion of the metal structures to be replaced or renovated? Yes ___/No ___. (If yes, score 1 point if metal structure is rusting and pitted, score 2 points if structure is leaking, and 3 points if corrosion threatens continued operation of the facility.)
6. Is there deterioration of concrete structures? Yes ___/No ___. (If yes, score 1 point if structures are deteriorated, 3 points if deterioration threatens continued operation.)
7. For pressure storage, is the tank above ground and are appropriate appurtenances available (i.e., manhole, site glass, means of adding or releasing air, by-pass, etc.)? Yes ___/No ___. (If no, score 1 point if hydropneumatic storage does not comply with standards, score 1 point if system relies on buried pressure tank, maximum 2 points.)
8. Is the affected storage facility in need of painting and/or other preventive maintenance or rehabilitation? Yes ___/No ___. (If answer is yes, score 1 point; if lead based paint needs removal/repainting, score 2 points.)

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9. Are storage facilities designed and constructed so that all parts of the distribution system have adequate pressure? Yes ___/No ___. (If answer is no, score 1 point if limited portion of distribution experiences low pressures, score 2 points if significant portion of distribution system has low pressure problems.)

Total Finished Water Storage Points**BONUS POINTS**

Score one point for each of the following items that are answered yes.

1. Is an Active Cross-Connection Control Program documented and being implemented? Yes ___/No ___.
2. Are one or more certified operators employed, and is there a Certified Operator in Responsible Charge (ROINC) for both treatment and distribution on site daily? Yes ___/No ___.
3. Does the facility participate in area local cooperative management and emergency response activities (JULIE, information/equipment loan to nearby water supplies, etc.)? Yes ___/No ___.
4. Is a current, workable emergency plan in place and readily available to operational personnel? Yes ___/No ___.
5. Does this supply have a documented active source water protection program in place? Yes ___/No ___.

Total Project Points**Total Bonus Points**

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1) Heading of the Part: Procedures for Issuing Loans from the Public Water Supply Loan Program

2) Code Citation: 35 Ill. Adm. Code 662

3) Section Numbers: Proposed Action:

662.110	New Section
662.120	New Section
662.130	New Section
662.140	New Section
662.210	New Section
662.220	New Section
662.310	New Section
662.320	New Section
662.330	New Section
662.340	New Section
662.410	New Section
662.420	New Section
662.430	New Section
662.440	New Section
662.450	New Section
662.460	New Section
662.470	New Section
662.510	New Section
662.520	New Section
662.610	New Section
662.620	New Section
662.630	New Section
662.640	New Section
662.650	New Section
662.660	New Section
662.670	New Section
662.710	New Section
662.720	New Section
662.730	New Section
662.740	New Section
662.750	New Section
662.810	New Section
662.820	New Section
662.830	New Section
662.910	New Section
662.920	New Section
662.930	New Section
662.940	New Section
662.1010	New Section
662.1020	New Section
662.1030	New Section
662.1110	New Section

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662.1120 New Section
 APPENDIX A New Section
 EXHIBIT A New Section
 EXHIBIT B New Section
 EXHIBIT C New Section

4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.8 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

5) A Complete Description of the Subjects and Issues Involved: The 1996 Amendments to the Federal Safe Drinking Water Act, 42 U.S.C. 300j, establish a program of federal grant awards to the states to provide low interest loan assistance to local government units to construct and upgrade their public water supplies to bring them into compliance with State and federal drinking water requirements. The General Assembly has established the Public Water Supply Loan Program to allow the State of Illinois to take advantage of the federal grant funds, and has designated the Illinois Environmental Protection Agency as the administering agency [415 ILCS 5/19.3]. These proposed rules set out the procedures that the Agency will follow in administering the PWSLP. This Part 662 (which is modeled on the existing Water Pollution Control Revolving Loan Program as set out in 35 Ill. Adm. Code 365) establishes the program components, including (1) loan eligibility criteria, including application and planning requirements; (2) procedures applicable to project construction, including contract bids and awards, physical construction, and project completion; and (3) procedures the Agency will follow in loan administration, including auditing and records, review of financial capability and dedicated source of revenue for loan repayment, loan disbursement, and loan termination. A companion rulemaking "Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program," 35 Ill. Adm. Code 663, sets out the methodology the Agency will use in prioritizing projects to be funded by the PWSLP.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes. The proposal contains 10 incorporations by reference.

9) Are there other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3]. These proposed rules are consistent with the policy objectives

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set out in Title IV-A of the Environmental Protection Act [415 ILCS 5/Title IV-A].

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Ron Drainer, Manager
Infrastructure Financial Assistance
Bureau of Water
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-2027

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The Public Water Supply Loan Program is presently limited to units of local government, including small municipalities. This rulemaking will affect small municipalities who need financial assistance in order to bring their public water supplies into compliance with State and federal requirements.

B) Reporting, bookkeeping and other procedures required for compliance: The proposed rules include specific tracking and auditing procedures to be followed by loan applicants and recipients.

C) Types of skills necessary for compliance: No additional professional skills are required by this rulemaking.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Rules begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 662

PROCEDURES FOR ISSUING LOANS FROM THE
PUBLIC WATER SUPPLY LOAN PROGRAM

SUBPART A: INTRODUCTION

Section	Purpose
662.110	Administration
662.120	Definitions
662.130	Incorporations by Reference
662.140	

SUBPART B: FEDERAL REQUIREMENTS FOR
THE PUBLIC WATER SUPPLY LOAN PROGRAM

Section	Uses of the Public Water Supply Loan Program
662.210	Agency Responsibilities Under the Federal Safe Drinking Water Act
662.220	

SUBPART C: LIABILITIES AND REMEDIES FOR
FAILURE TO COMPLY WITH LOAN PROCEDURES

Section	Noncompliance with Loan Procedures
662.310	Stop-Work Order
662.320	Termination
662.330	Waiver of Procedures
662.340	

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section	Project Priority Determination
662.410	Pre-Applications for Financial Assistance and Identification of Projects to be Funded
662.420	Financial Assistance Application and Approval
662.430	Fixed Loan Rates
662.440	Restrictions on Refinancing
662.450	Limitation on Design Cost
662.460	Limitation on Loan Amount
662.470	

SUBPART E: PROJECT PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section	Loan Applicant's Responsibilities During Project Planning
662.510	

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662.520 State Environmental Review

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section

662.610 Requirements for Subagreements

662.620 Construction Contracts

662.630 Contracts for Personal and Professional Services

662.640 Compliance with Procurement Requirements for Construction Contracts

662.650 Disputes

662.660 Indemnity

662.670 Covenant Against Contingent Fees

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

Section

662.710 Construction Initiation

662.720 Project Changes

662.730 Construction Engineering

662.740 Operation and Maintenance of the Project

662.750 Final Inspection

SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING, AND RECORDS

Section

662.810 Access

662.820 Audit and Records

662.830 Single Audit Act

SUBPART I: REQUIREMENTS FOR OPERATION, MAINTENANCE AND REPLACEMENT REVENUE SYSTEM, FINANCIAL CAPABILITY, DEDICATED SOURCE OF REVENUE AND FLOODPLAIN INSURANCE

Section

662.910 Operation, Maintenance and Replacement Revenue System

662.920 Financial Capability

662.930 Dedicated Source of Revenue

662.940 Floodplain Insurance

SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

Section

662.1010 Determination of Allowable Costs

662.1020 Use of Loan Funds and Payment of Unallowable Costs

662.1030 Disbursement of Loan Funds

SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

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Section

662.1110 Loan Repayment to the Agency

662.1120 Delinquent Loan Repayments

APPENDIX A Executive Orders

EXHIBIT A Executive Order 11625

EXHIBIT B Executive Order 12138

EXHIBIT C Executive Order 12549

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.8 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

SOURCE: Adopted at 21 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 662.110 Purpose

The federal Safe Drinking Water Act Amendments of 1996 include a mechanism to provide capitalization grants to the states for the purpose of establishing drinking water revolving loan funds. 42 U.S.C. 300j-12 authorizes the Administrator of the United States Environmental Protection Agency to enter into agreements with the states to establish these loan funds, and establishes specific requirements for the development and operation of the state loan programs. The Illinois General Assembly has created the Public Water Supply Loan Program (PWSLP), to be administered by the Illinois Environmental Protection Agency [415 ILCS 5/19.1 through 19.8]. This Part 662 sets out the procedures the Agency will use to operate the PWSLP, including the issuance of loans for the construction of public water supply facilities.

Section 662.120 Administration

The Public Water Supply Loan Program, an interest-bearing special fund, will be administered by the Agency as an instrumentality of the State of Illinois in accordance with the Operating and Capitalization Grant Agreements between the Agency and the USEPA in accordance with State and federal laws.

Section 662.130 Definitions

a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (Act) [415 ILCS 5] and the regulations adopted thereunder.

b) For the purposes of this Part, the following definitions apply:

Addenda -- Documents issued by the loan applicant after advertisement for bids, which modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications or corrections.

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Agency -- Illinois Environmental Protection Agency.

Binding Commitment -- A legal obligation between the Agency and a local government unit to provide financial assistance from the Public Water Supply Loan Program to that local government unit, specifying the terms and schedules under which assistance is provided. The loan agreement will be considered a binding commitment.

Building Cost -- The cost of erection of construction contract line items. Building costs do not include preliminary planning, engineering, architectural, legal, fiscal, administrative or contingency costs.

Capitalization Grant -- The actual federal funds received by the Agency for deposit into the PWSLP as a result of the capitalization grant agreement with the USEPA.

Capitalization Grant Agreement -- The agreement entered into each federal fiscal year between the Agency and the USEPA for the purpose of providing a grant to capitalize the PWSLP and enable the Agency to provide assistance for construction of public water supply facilities.

Change Order -- A written order by the loan recipient to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

Construction -- Any one or more of the following which is undertaken for a public purpose: preliminary planning to determine the feasibility of the public water supply facilities; engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of public water supply facilities, or the inspection or supervision of any of the foregoing items. [415 ILCS 5/19.2(d)]

Contract Documents -- The contract, including but not limited to advertisement for bids, information for bidders, bid, bid bond agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications, and addenda.

Dedicated Source of Revenue -- The type of security and the basis of legal authorization which are dedicated by legislative enactment or other appropriate authority along with the applicable revenue source pledged for repayment and deposited into an account restricted to the purpose of loan repayment to the PWSLP, which is sufficient to repay the principal and interest on the loan.

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Design -- All administrative, legal, and engineering tasks, subsequent to project plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems.

Director -- Director of the Illinois Environmental Protection Agency.

Fixed Loan Rate -- One-half the market interest rate rounded to the nearest .01 percent but not less than 2.50 percent.

Fund -- The Water Revolving Fund authorized by 415 ILCS 5/19.3, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program.

Initiation of Loan Repayment Period -- The date in a loan agreement or amendment that establishes the beginning point of the loan repayment period.

Initiation of Operation -- The date specified by the loan agreement on which use of the project began operation for the purposes that it was planned, designed and constructed.

Intended Use Plan -- A plan which includes a description of the short and long term goals and objectives of the PWSLP, project categories, terms of financial assistance, communities and population benefitted. [415 ILCS 5/19.2(e)]

Interest Rate -- Not less than one-fourth of the market interest rate rounded to the nearest .01 percent.

Loan Agreement -- The contractual agreement between the Agency and the local government unit which contains the terms and conditions governing the loan issued from the PWSLP.

Loan Applicant -- A local government unit that has applied for a loan from the PWSLP for construction of public water supply facilities.

Loan Commitment Letter -- The letter that is sent by the Agency to the loan applicant which reserves loan funds and identifies the requirements that must be satisfied prior to the execution of the loan agreement.

Loan Procedures -- The procedures for issuing loans from the Public Water Supply Loan Program as set out in this Part 662.

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Loan Recipient -- A local government unit which has been provided a loan for construction of public water supply facilities from the PWSLP.

Loan Support Rate -- Not more than one-fourth of the market interest rate rounded to the nearest .01 percent.

Local Government Unit -- A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both. [415 ILCS 5/19.2(g)]

Market Interest Rate -- The mean interest rate of the 20 General Obligation Bond Buyer Index, from July 1 to June 30 of the preceding State fiscal year rounded to the nearest .01 percent.

Operating Agreement -- The agreement between the Agency and USEPA that establishes the policies, procedures and activities for the application and receipt of federal capitalization grant funds for capitalization of the PWSLP.

Principal -- All disbursements, including interest and loan support accrued on the disbursements, that will be financed at the time the repayment schedule period begins.

Project -- The activities or tasks the Agency identifies in the loan agreement for which the loan recipient may expend loan funds.

Project Priority List -- An ordered listing of projects developed in accordance with the priority system described in 35 Ill. Adm. Code 663; Subpart B (Procedures for Calculating the Loan Priority Index) which the Agency has determined are eligible to receive financial assistance from the PWSLP.

PWSLP -- The Public Water Supply Loan Program as authorized by Section 19.2 of the Environmental Protection Act [415 ILCS 5/19.2].

Responsible Bid -- A bid that demonstrates the apparent ability of the bidder to successfully meet all the requirements specified in the contract documents. Information required to demonstrate responsibility may be corrected or submitted after bid opening.

Responsive Bid -- A bid that complies with all meaningful or material aspects of the contract documents. The bid must constitute a definite and unqualified offer to meet the material requirements of the contract documents including any terms that affect price, quality,

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quantity or time of delivery, or are clearly identified in the contract documents to be complied with at the risk of bid rejection for non-responsiveness. Bid defects resulting in a non-responsive bid may not be corrected after the bid opening.

SDWA -- The federal Safe Drinking Water Act, as amended (42 U.S.C. 300f).

Subagreement -- A written agreement between the loan recipient and another party and any tier of agreement thereunder to furnish services, supplies, or equipment necessary to complete the project for which a loan was provided, including contracts for personal and professional services and purchase orders.

Useful Life -- The estimated period during which a public water supply facility is intended to be operable.

USEPA -- The United States Environmental Protection Agency.

Section 662.140 Incorporations by Reference

a) The following publications are incorporated by reference:

- 1) American Institute of Certified Public Accountants Professional Standards, June 1, 1987, 666 Fifth Avenue, New York, New York 10019.
- 2) Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers, Recommended Standards for Water Works, 1992 Edition. Health Research Inc., Health Education Services Division, P.O. Box 7126, Albany, New York 12224, (518) 439-7286.
- 3) California State University, Sacramento, School of Engineering:

A) Small Water System Operation and Maintenance, Third Edition, 1995;

B) Water Distribution System Operation and Maintenance, Third Edition, 1996;

C) Water Treatment Plant Operation, Volume I, Third Edition, 1996 and Volume II, Second Edition, 1995.

4) American Water Works Association, AWWA Book Store, 6666 West Quincy Avenue, Denver, Colorado 80235:

A) Part I: Water Sources, Second Edition, 1995;

B) Part II: Water Treatment, Second Edition, 1995;

C) Part III: Water Transmission and Distribution, Second

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Edition, 1996;

D) Part IV: Water Quality, Second Edition, 1995;

E) Part V: Basic Science Concepts and Applications, 1995.

b) This Part 662 incorporates no future editions or amendments.

SUBPART B: FEDERAL REQUIREMENTS FOR
THE PUBLIC WATER SUPPLY LOAN PROGRAM

Section 662.210 Uses of the Public Water Supply Loan Program

- a) To accept and retain funds from grant awards, appropriations, transfers and payments of interest and principal;
- b) To make direct loans at or below market interest rates to any eligible local government unit to finance the construction of public water supplies;
- c) To buy or refinance debt obligations of a local government unit incurred on or after July 17, 1997;
- d) To guarantee local obligations where such action would improve credit market access or reduce interest rates;
- e) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State, if the proceeds of such bonds will be deposited in the PWSLP. [415 ILCS 5/19.3(d)]

Section 662.220 Agency Responsibilities Under the Federal Safe Drinking Water Act

The Agency will prepare an Intended Use Plan (IUP) and negotiate an Operating Agreement with USEPA, which will be the basis for the Capitalization Grant Agreement. These documents establish the procedures, activities and assurances for operation of the PWSLP, including but not limited to the following:

- a) Grant payments will be accepted in accordance with a payment schedule established jointly by the Agency and the USEPA;
- b) A 20 percent State match will be deposited into the PWSLP according to an agreed upon schedule;
- c) A listing and description of projects on the Project Priority List to be provided financial assistance, the terms of financial assistance and the size of the community served;
- d) The loan repayment period cannot exceed 20 years beyond the earlier of the initiation of operation date or the initiation of the loan repayment period;
- e) All repayments of loan principal and interest must be deposited into the PWSLP;
- f) Biennial reporting to the USEPA on the Agency's activities under the Federal Safe Drinking Water Act;
- g) A description of the criteria and methods used for distribution of

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funds; and

h) A description of the financial status of the PWSLP.

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH LOAN PROCEDURES

Section 662.310 Noncompliance with Loan Procedures

- a) In the event of noncompliance with any condition or obligation arising out of the loan that occurs before the final audit, the Director may take any necessary action as provided by law or by the loan agreement against the loan recipient including, but not limited to, one or more of the following actions:
 - 1) Commence legal action in a court of competent jurisdiction;
 - 2) Declare all amounts under the loan immediately due and payable, enforce any security, and recover all loan funds;
 - 3) Terminate the loan pursuant to Section 662.330 (Termination);
 - 4) Suspend all or part of the project work pursuant to Section 662.320 (Stop-Work Order); or
 - 5) Reduce the amount of the loan by the amount of misused funds.
- b) No action shall be taken under this Section without prior consultation with the loan recipient.
- c) In determining whether to take action the Agency shall, at a minimum, consider mitigating or aggravating factors, including but not limited to the severity and number of the violations; whether the violation is a continuing one; whether the loan recipient can remedy the violation; and whether the loan recipient remains capable of complying with the approved project work.

Section 662.320 Stop-Work Order

- a) The Agency may, for any violation of this Part, by written order, require the loan recipient to stop all or any part of the project work for a period of not more than 30 days after the date of the order, and for any further period to which the parties may agree. Any such order shall include a list of the project activities to which it applies. Upon receipt of a stop-work order, the loan recipient shall immediately comply with its terms and shall minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within 30 days after the date of the stop-work order, or within the period of any extension to which the parties have agreed, the Agency shall:
 - 1) Cancel the stop-work order upon resolution of the violation or cause leading to that stop-work order; or
 - 2) Terminate the work covered by the stop-work order as provided in Section 662.330(a).
- b) If a stop-work order is canceled or the period of the order or any extension thereof expires, the loan recipient shall resume work. An adjustment may be made in the loan period, the project period, the

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loan amount, or any combination of these, and the loan amended accordingly, if the loan recipient asserts a written claim for such an adjustment within 30 days after the end of the work stoppage.

- c) All costs that are incurred by the loan recipient after the receipt of a stop-work order or during any agreed to extension of the stop-work order period to which the Agency and the loan recipient have agreed, shall be deemed unallowable costs unless otherwise authorized by the Agency in writing or authorized under the loan procedures.

Section 662.330 Termination

- a) Loan Termination by the Agency

The Agency, by written notice and after consultation with the loan recipient, may terminate the loan in whole or in part. Cause for termination shall include, but not be limited to, failure by the loan recipient to comply with the terms and conditions of the loan or to provide adequate funding. Upon loan termination, the loan recipient shall refund any unexpended loan funds to the State of Illinois to be deposited in the FWSLP, except for such portion as may be required to pay the allowable costs of materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination.

- b) Project Termination by the Loan Recipient

A loan recipient who wishes to terminate a project for which the loan has been provided must submit a written request to the Agency that documents good cause for the proposed termination. If the Agency agrees that there is good cause for termination of all or any portion of the project, it shall enter into a termination agreement with the recipient or unilaterally terminate the loan. If the Agency finds that the loan recipient has terminated the project without good cause, it shall declare the loan in default, and all loan funds previously paid to the loan recipient, together with interest thereon, shall be returned to the State of Illinois in accordance with a schedule established by the Agency for deposit into the FWSLP. Good cause to terminate a loan project includes, but is not limited to:

- 1) Changes in economic circumstances within the loan recipient's service area; and
- 2) Information that the approved treatment technology will not perform as originally anticipated.

Section 662.340 Waiver of Procedures

- a) Except as provided in subsection (b) below or otherwise required by law, the Director may waive any of the loan procedures, either in whole or in part, by a written statement to the loan applicant, either as a special condition of the loan or otherwise, provided the Director finds that the procedure or requirement to be waived is not necessary to insure the integrity of the project, will not reduce an applicant's

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ability to repay the loan to the Agency or will not, in general, weaken the financial position of the FWSLP. The waiver may be subject to such additional conditions the Director deems necessary.

- b) The following procedures will not be waived:

- 1) Section 662.410 (Project Priority Determination)
- 2) Section 662.440 (Fixed Loan Rates)
- 3) Section 662.510 (Loan Applicant's Responsibilities During Project Planning)
- 4) Section 662.520 (State Environmental Review)
- 5) Section 662.620(d)(3) (Wage Provisions)
- 6) Section 662.620(d)(4) (MBE/WBE Requirements)
- 7) Section 662.620(d)(5) (Debarred or Suspended Certification)
- 8) Section 662.630(a)(1) (MBE/WBE Requirements)
- 9) Section 662.630(a)(4) (Debarred or Suspended Certification)
- 10) Section 662.740 (Operation and Maintenance of the Project)
- 11) Section 662.910 (Operation, Maintenance and Replacement Revenue System)
- 12) Section 662.930 (Dedicated Source of Revenue)

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section 662.410 Project Priority Determination

- a) Financial assistance from the FWSLP will be provided only to local government units for projects on the Project Priority List developed by the Agency pursuant to 35 Ill. Adm. Code 663.
- b) The Project Priority List sets out the priority for receipt of loans for each loan applicant. Priorities will be established in accordance with 35 Ill. Adm. Code 663 after the receipt by the Agency of loan pre-applications pursuant to Section 662.420 (Pre-Applications for Financial Assistance and Identification of Projects to be Funded).
- c) Projects included on the Intended Use Plan will be selected from projects on the Project Priority List to be funded in priority order, provided the project is scheduled to initiate construction by March 31 of the subsequent federal fiscal year.

Section 662.420 Pre-Applications for Financial Assistance and Identification of Projects to be Funded

- a) Every loan applicant shall submit to the Agency a pre-application that includes the following items:

- 1) The reason for the proposed project;
 - 2) A description of the proposed project;
 - 3) An estimated project cost;
 - 4) A proposed schedule for construction; and
 - 5) The population to be served by the proposed project.
- b) Loan applicants for financial assistance, during any federal fiscal year commencing October 1, must file a new pre-application annually by

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- the preceding March 31 to qualify for possible inclusion in the Intended Use Plan.
- c) A project with approved project planning may be added to the Project Priority List at any time by the submission of a pre-application.
 - d) By July 1 of each year, the Agency shall publish a list of the projects which are proposed for funding during the next federal fiscal year. These projects will be included in the Intended Use Plan.
 - e) After January 1 of each year, the Agency may bypass projects on the Intended Use Plan that cannot meet the schedule to initiate construction by March 31 and may offer loan commitments to other projects on the Project Priority List in accordance with Section 662.430 (Financial Assistance Application and Approval).

Section 662.430 Financial Assistance Application and Approval

- a) In order to issue a loan commitment letter, the Agency must have received the following documents:
 - 1) A completed loan application form for financial assistance;
 - 2) An approved project plan in accordance with Section 662.510 (Loan Applicant's Responsibilities During Project Planning);
 - 3) Loan Program Certifications;
 - 4) An executed inter-governmental agreement necessary for project implementation, where necessary;
 - 5) Certification of compliance with federal Executive Order 12549 (Appendix A, Exhibit C) regarding debarment, suspension and other responsibility matters;
 - 6) A resolution or ordinance authorizing a representative of the loan applicant to sign loan application documents;
 - 7) Evidence of compliance with the Relocation and Real Property Acquisition Policies Act of 1970 (P.L. 91-646);
 - 8) A statement that the necessary project site, rights-of-way, easements and permits have been obtained;
 - 9) A statement of intent to comply with the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127) in accordance with Section 662.940 (Floodplain Insurance);
 - 10) An approved operation, maintenance and replacement revenue system in accordance with Section 662.910 (Operation, Maintenance and Replacement Revenue System);
 - 11) An enacted authorized loan security and approved dedicated source of revenue in accordance with Section 662.930 (Dedicated Source of Revenue);
 - 12) The construction drawings and specifications, suitable for bidding purposes;
 - 13) A construction permit application and permit or "authorization to construct" from the Agency, pursuant to the provisions of Sections 14 through 17 or Sections 39 and 40 of the Environmental Protection Act [415 ILCS 5/14 through 17, 39 and 40], whichever is applicable;

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- 14) A project completion schedule;
 - 15) An executed contract for design and construction related work in accordance with Section 662.630 (Contracts for Personal and Professional Services);
 - 16) A compliance report (Title VI, Civil Rights Act of 1964, as amended (P.L. 88-352));
 - 17) An enacted ordinance authorizing the bonds, notes or other evidence of indebtedness to be delivered to the Agency; and
 - 18) A legal opinion from the loan recipient's legal counsel with respect to the validity and enforceability of the loan recipient's obligations and the absence of conflicts with other agreements, bonds or ordinances.
- b) In addition to the items identified in subsection (a) above, the Agency must have received the following items before it will issue the actual Loan Agreement:
- 1) A copy of the bid advertisement(s);
 - 2) Any addenda issued by the loan applicant, if applicable;
 - 3) A certification of publication;
 - 4) The bidder's 5% bid bond or cashier's check;
 - 5) The low bidder's certificate of nonsegregated facilities;
 - 6) A summary of the evidence that the contractor and engineer have met MBE/WBE requirements;
 - 7) The submittal of bid tabulations;
 - 8) A letter from the engineering firm to the applicant containing the consultant's analysis of bids and the engineer's recommendations for the award of the bids;
 - 9) A copy of the successful bid proposals;
 - 10) The notice of the applicant's intent to award; and
 - 11) A certification from the prime contractor and engineer that they have not or will not use the services of anyone who has been debarred or suspended under federal Executive Order 12549 for construction work. This certification is also required for all subcontracts over \$25,000.

Section 662.440 Fixed Loan Rates

The fixed loan rate is comprised of an interest rate and a loan support rate. The fixed loan rate charged for a public water supply facilities loan shall be a simple annual rate at one-half the market interest rate, but not less than 2.50 percent.

Section 662.450 Restrictions on Refinancing

- a) No project cost incurred prior to the execution of the loan agreement shall be eligible for loan assistance except:
 - 1) Design costs set forth in Section 662.460 (Limitation on Design Cost) and bidding costs related to eligible construction contracts; and

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- 2) Project costs where the local obligations were incurred and construction was initiated after July 17, 1997 to eliminate a health hazard as defined in 35 Ill. Adm. Code 663.
- b) Notwithstanding subsection (a)(2) above, no costs incurred under a construction contract awarded more than 90 days after the effective date of this Part 662 shall be eligible for loan refinancing unless the Agency has granted written approval prior to the contract award.

Section 662.460 Limitation on Design Cost

Allowable costs for design of the loan project will be limited to the actual cost incurred for design up to a maximum percentage of the allowable as bid construction cost.

- a) For allowable as bid construction costs of \$500,000 or less, the design will be funded up to 15 percent;
- b) For allowable as bid construction costs of \$500,001 to \$2,000,000, the design will be funded up to 12 percent;
- c) For allowable as bid construction costs of \$2,000,001 to \$5,000,000, the design will be funded up to 10 percent;
- d) For allowable as bid construction costs of \$5,000,001 to \$10,000,000, the design will be funded up to 8 percent; and
- e) For allowable as bid construction costs of more than \$10,000,000, the design will be funded up to 7 percent.

Section 662.470 Limitation on Loan Amount

The annual loan amount available to a loan recipient cannot exceed the lesser of \$10 million or 25% of monies available for loans, unless the amount required for projects with approvable loan applications is less than the available funds for that fiscal year.

SUBPART E: PROJECT PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section 662.510 Loan Applicant's Responsibilities During Project Planning

- a) The loan applicant shall:
 - 1) Undertake and complete project planning, which shall consist of plans and studies that are directly related to the construction of public water supply facilities, to maintain compliance with State and federal requirements as specified in 35 Ill. Adm. Code Subtitle F and the Federal Safe Drinking Water Act;
 - 2) Demonstrate to the Agency through its plans and studies the need for the facilities for which loan assistance is being requested; and
 - 3) Demonstrate by a systematic evaluation of feasible alternatives that the proposed facilities represent the cost-effective means of meeting applicable drinking water standards and goals, recognizing environmental and social conditions as set forth

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below.

- b) If any information required to be furnished as part of a project plan has been developed separately, it shall be furnished and incorporated by reference into the project plan. Planning previously or collaterally accomplished under local, State or federal programs may be utilized to the extent applicable.
- c) The project plan shall be submitted to the Agency for approval. Where applicable, the applicant shall also submit drafts of any inter-governmental agreements or demonstrations of legal authority necessary to plan implementation.
- d) The project plan may include more than one construction project and may provide the basis for several subsequent projects. The Agency shall review any project plan that has previously served as the basis for a loan, to determine if changes have occurred that require amendment of the plan for the subsequent project. If substantial changes have occurred that warrant revision or amendment of the plan as specified in Section 662.520, the loan applicant shall revise or amend and resubmit it for Agency approval in accordance with Section 662.520(a) and (b).
- e) A project plan shall include the following elements in sufficient detail to, at minimum, comply with all applicable construction permit supporting data requirements of 35 Ill. Adm. Code 652.104:
 - 1) A complete description of the public water supply system of which the proposed project is a part, identification of any existing violations of federal or State public water supply regulations, and identification of the needs to be addressed by the proposed project.
 - 2) A discussion of the technical, financial, and managerial considerations that form the basis for the applicant's selection of the cost-effective project from the range of alternatives available and considered. When appropriate to the project scope, the following issues must be addressed:
 - A) The relationship of the nature, size and capacity of each alternative to the needs to be served, including reserve capacity;
 - B) A discussion of the operational requirements of each alternative and provisions for disposal of waste by-products in accordance with State requirements;
 - C) An assessment of the capability of each alternative to maintain compliance with drinking water standards;
 - D) An inventory of the relative environmental impacts of each alternative and a discussion of the measures that would be required during design and construction to mitigate or minimize negative environmental impacts;
 - E) Adequate basis of design information for each alternative to confirm the reasonability of cost estimates;
 - F) A comparison of costs for each alternative, including both capital and operational costs over the design life of the

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- facilities.
- 3) A detailed description of the alternative selected for loan assistance, including preliminary engineering data, complete cost estimates for design and building, and a projected schedule for completion. The engineering data shall include, to the extent appropriate, flow diagrams, unit process descriptions, detention times, flow rates, unit capacities, etc., sufficient to demonstrate the project proposed will be designed in accordance with 35 Ill. Adm. Code 651 through 654.
 - 4) Any required comments or approvals from relevant federal, State, interstate, regional or local agencies, including, at minimum, comments from the Illinois Historic Preservation Agency and the State Clearinghouse.
 - 5) An implementation plan for the proposed recommendations, including necessary financial arrangements for operating the facility and repayment of the proposed loan amount, as well as the impact of these costs on the system users.

Section 662.520 State Environmental Review

- a) Prior to making a final determination on the acceptability of any project plan, the Agency shall undertake an environmental review. The Agency may categorically exclude certain classes of projects from environmental review when, by virtue of their limited scope, the projects have no potential for negative environmental impacts.
- b) The Agency shall not begin its environmental review until it has determined that the project plan conforms to the requirements of Section 662.510 (Loan Applicant's Responsibilities During Project Planning), and that, based on the information available, all reasonable measures have been taken in the planning to avoid and mitigate negative environmental impacts.
- c) The scope of the Agency's environmental review shall include, but not be limited to, an assessment of the impacts of both the loan funded project and the overall planning on rare and endangered species, historic and cultural resources, prime agricultural land, air and water quality, recreational areas, wetlands, floodplains and other sensitive environmental areas. The review shall also assess the direct and indirect impacts of construction on the loan applicant.
- d) For all projects requiring an environmental review, the Agency will assess the environmental impacts of the proposed project and prepare a written Preliminary Environmental Impacts Determination (PEID). The public will be given an opportunity to comment on the project plan and the Agency's environmental impacts assessment.
- e) The PEID shall be mailed to the loan applicant and other interested parties, inviting public comment. Within 60 days after receipt of the Agency's preliminary determination, the loan applicant shall hold a public hearing on the plan and the Agency's PEID for the purpose of obtaining public comment. The loan applicant shall allow an

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- additional 15 days from the date of the public hearing for the submission of public written comments.
- f) The time and place of the public hearing shall be conspicuously and adequately announced at least 10 days before the hearing. In addition, the Agency's PEID document shall be displayed at a convenient local site sufficiently prior to the hearing to obtain a level of public participation appropriate to the scope and impacts of the proposed project.
 - g) The loan applicant shall provide written notice of the public hearing to interested local, State and federal agencies, State and regional clearinghouses, citizen groups and local public officials.
 - h) The loan applicant shall provide the Agency with an accurate summary of all public comments received, together with any proposed amendments to the plan made in response to these comments.
 - i) Upon receipt of this public hearing summary and after the expiration of the 15 day written comment period, the Agency shall take the following action:
 - 1) An unconditional approval of the plan (original or as amended); or
 - 2) A conditional approval of the plan with special conditions; or
 - 3) A disapproval of the plan based on evidence of significant negative environmental impacts for which appropriate mitigative measures have not been identified; or
 - 4) A determination of the need for an Environmental Impact Statement (EIS) under the National Environmental Policy Act (42 U.S.C. 4332). The Agency may change its disapproval to approval or conditional approval based on the recommendations of the EIS.
 - j) For projects categorically excluded from the environmental review process, the Agency shall provide to the applicant a Notice of Intent to Issue a Categorical Exclusion. The applicant shall publish the Notice in a newspaper of local record, and allow 15 days for public comment. If no valid objection is raised to the Categorical Exclusion, the Agency shall issue an unconditional approval of the project plan. Should valid concerns be raised over potential environmental impacts, the Agency shall proceed with an environmental review under this Section or issue a conditional approval where the applicant incorporates mitigative measures that would clearly resolve the environmental concerns.
 - k) Agency approval of a project plan shall be valid for purposes of loan funding for a period of five years, after which time the plan must be updated and resubmitted to the Agency for review and approval. The Agency shall prepare a revised environmental review and provide an opportunity for public comment.
 - l) At any time within five years from the date of project plan approval, the Agency may rescind its approval and require the planning to be amended, if there are changes to the scope of proposed construction or significant alterations to planning area conditions or underlying assumptions that might alter the previous conclusions regarding

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environmental impacts or cost-effectiveness. For projects where the amended planning would result in substantial changes in environmental or economic impacts, the Agency may require public comment prior to granting approval of the amended plan.

m) Additions to the project scope or changes to the location of proposed construction activity shall require an amendment to an approved project plan. Where the Agency determines that the proposed changes will not alter the previous environmental impacts findings, it will approve planning amendments by letter. In other cases, additional environmental review and public comment may be required.

n) Agency project planning determinations made in accordance with subsection (i) above shall be subject to the provisions of the Illinois Administrative Procedure Act [5 ILCS 100].

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section 662.610 Requirements for Subagreements

The following procedures shall apply to subagreements:

- a) Local Preference
Local laws, ordinances, regulations or procedures that are designed to operate to give local or in-state bidders or proposers preference over other bidders or proposers shall not be used in evaluating bids or proposals for subagreements under PWSLP loans.
- b) Profits
Only fair and reasonable profits may be earned by contractors in subagreements under PWSLP loans. Profit included in a formally advertised, competitively bid, fixed price construction contract awarded pursuant to Section 662.620 (Construction Contracts) is presumed to be reasonable. If a subagreement is not competitively bid, the loan recipient shall submit to the Agency its basis for determination of reasonable profit.
- c) Loan Recipient Responsibility
The loan recipient shall be responsible for the administration and successful accomplishment of the project for which PWSLP loan assistance is provided. The loan recipient shall be responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements, including, but not limited to, issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other procurement matters. With the prior written consent of the Agency, these functions may be performed for the loan recipient by an individual or firm retained for that purpose. Such an individual or firm shall be deemed the loan recipient's agent, and shall be subject to all the provisions of the loan agreement, including this Part 662, that apply to the loan recipient.
- d) Privy of Contract
Neither the Agency nor the State of Illinois shall be a party to any

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subagreement (including contracts or subcontracts), or to any solicitation or request for proposals thereunder.

- e) Subagreements shall:
 - 1) Be directly related to the accomplishment of the loan recipient's approved work program;
 - 2) Be in the form of an executed written agreement (except for small purchases of \$25,000 or less);
 - 3) Be for monetary or in-kind consideration; and
 - 4) Not be in the nature of a grant or gift.
- f) Documentation
 - 1) Procurement records and files for purchases in excess of \$25,000 shall include the following:
 - A) The basis for contractor selection;
 - B) The justification for lack of competition if competition appropriate to the type of project work to be performed is required but not obtained; and
 - C) The basis for award cost or price.
 - 2) Procurement documentation as described in subsection (f)(1) above shall be retained by the loan recipient or contractor(s) for the period required by Section 662.820 (Audit and Records).
 - g) Subagreements shall only be awarded to persons or organizations that:
 - 1) Have adequate financial resources for performance;
 - 2) Have the necessary experience, organization, technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain these requirements;
 - 3) Have the staffing sufficient to comply with the proposed or required completion schedule for the project;
 - 4) Have a satisfactory record of integrity, judgment and performance;
 - 5) Have an adequate financial management system and audit procedure which is consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards;
 - 6) Maintain a standard of procurement in accordance with this Part 662;
 - 7) Maintain a property management system which provides adequate procedures for the acquisition, maintenance, safeguarding and disposition of all property; and
 - 8) Conform to the civil rights, equal employment opportunity and labor law requirements of this Part 662.
 - h) Fraud and Other Unlawful or Corrupt Practices
 - 1) The obtaining and administration of loans from the PWSLP, and of subagreements awarded by loan recipients, shall be free from bribery, graft, kickbacks, and other corrupt practices. The loan recipient shall bear the primary responsibility for prevention and detection of such conduct and for cooperation with appropriate authorities in the prosecution of any such conduct.
 - 2) The loan recipient shall effectively pursue available State or

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local legal and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of illegality or corrupt practices that are brought to its attention. The loan recipient shall advise the Agency immediately when any such allegation or evidence comes to its attention, and shall periodically advise the Agency of the status and ultimate disposition of any matter.

i) Negotiation of Subagreements

All subagreements shall be awarded by formal advertising unless the loan recipient determines, and the Agency concurs, that it is impracticable and infeasible to use formal advertising. Negotiated contracts must be competitively awarded to the maximum practicable extent. Procurements may be negotiated by the loan recipient, if approved by the Agency, for the following reasons:

- 1) Public exigency, as evidenced by governmental declaration, will not permit the delay incident to advertising (e.g., an emergency procurement); or
- 2) The aggregate amount involved does not exceed \$4,000; or
- 3) The materials or services to be procured are available from only one person or firm; or
- 4) The procurement is for personal or professional services, or for any services to be rendered by an educational institution; or
- 5) No responsive, responsible bids at acceptable price levels have been received after formal advertising; or
- 6) The procurement is for material or services where the prices are established by law; for technical items or equipment requiring standardization and interchangeability of parts with existing equipment; for experimental, developmental or research work; for highly perishable materials; resale; or for technical or specialized supplies requiring substantial initial investment for manufacture.

Section 662.620 Construction Contracts

The following procedures shall apply to construction contracts (subagreements) awarded by loan recipients for the construction phase only. They shall not apply to personal and professional service contracts.

- a) Contract documents shall include bid, performance and payment bonds.
- b) Each contract shall be awarded after formal advertising, unless negotiation is permitted under Section 662.610(i) (Negotiation of Subagreements). Formal advertising shall be in accordance with the following:

1) Adequate bidding documents

Bidding documents (invitations for bid) shall be made available by the loan recipient and shall be furnished upon request in a timely manner. A complete set of bidding documents shall be maintained by the loan recipient and shall be available for inspection and copying by any party. The bidding documents shall

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include:

- A) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule. (Drawings and specifications may be made available for inspection instead of being furnished.);
- B) The terms and conditions of the contract to be awarded;
- C) A clear explanation of the method of bidding, the method of evaluation of bid prices, and the basis and method for award of the contract;
- D) The statement that any contract awarded in response to the bid is expected to be funded in part by a loan from the PWSUP, and that neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to this bidding or any resulting contract;
- E) Responsibility requirements or criteria that will be used in evaluating bidders, provided that an experience requirement or performance bond may not be used unless adequately justified by the loan recipient;
- F) A copy of subsections (b)(1)(G) and (H) below shall be included in the proposal form to be used by bidders and shall constitute a representation and certification to be considered as a part of their bid;
- G) By submission of the bid each bidder certifies, and in the case of a joint bid each party thereto certifies as to his own organization, that in connection with the bid:
 - i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to the prices with any other bidder or with any competitor;
 - ii) Unless otherwise required by law, the prices quoted in the bid have not knowingly been, prior to opening, directly or indirectly disclosed to any other bidder or to any competitor; and
 - iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or withhold a bid for the purpose of restricting competition.
- H) Each person signing the bid shall certify that:
 - i) He or she is the person in the bidder's organization responsible for the decision as to the prices being bid and that he or she has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above; or
 - ii) He or she is not the person in the bidder's organization responsible for the decision as to the prices being bid, but that he or she has been authorized to act as agent certifying that such

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persons have not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above, and as their agent shall so certify. He or she shall also certify that he or she has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above.

- 2) Addenda to bidding documents
 - If the loan recipient wishes to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, it shall send written addenda to all firms who have obtained bidding documents, in time to be considered prior to the bid opening time. When appropriate, the period for submission of bids shall be extended. All addenda to the bidding documents should be submitted to the Agency for approval prior to the bid opening.
 - Award to the low, responsive, responsible bidder
 - A) After bids are opened, they shall be evaluated by the loan recipient in accordance with the methods and criteria set out in the bidding documents.
 - B) The loan recipient may reserve the right to reject all bids if it has documented sound business reasons. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the loan recipient.
 - C) If the award is intended to be made to a firm which did not submit the lowest bid, prior to any award, the loan recipient shall submit to the Agency a written statement, explaining why each lower bidder was deemed not responsive or not responsible.
- c) Negotiations of Contract Amendments (Change Orders)
 - 1) Loan recipient responsibility
 - The loan recipient shall be responsible for negotiation of construction contract change orders. This function may be performed by the loan recipient directly or, if authorized, by its consulting engineer. During negotiations the loan recipient shall:
 - A) Make sure that the contractor has a clear understanding of the scope and extent of work and other essential requirements;
 - B) Assure that the contractor demonstrates that he will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and
 - C) Maintain a summary of all negotiations and the engineer's independent cost estimate.
 - 2) Changes in contract price or time
 - The contract price or time may be changed only by a change order.

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When negotiations are required, they shall be conducted in accordance with subsection (c) of this Section.

- 3) For each change order the contractor shall submit to the loan recipient for review sufficient cost and pricing data to enable the loan recipient to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.
- 4) Agency review
 - For each change order, the loan recipient shall submit to the Agency for approval the following documentation:
 - A) A description of the changed work;
 - B) The contractor's proposal itemizing the cost and time to complete the changed work;
 - C) The recipient's or engineer's estimate of the cost and time to complete the changes;
 - D) Two copies of the executed change order with justification including, but not limited to, the need for the proposed work and the technical solution; and
 - E) The summary of negotiations and resolution between the engineer's independent cost estimate and the contractor's proposal.
- d) Required Construction Contract Provisions
 - Each construction contract shall include the following provisions:
 - 1) Audit; access to records
 - A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on loan work consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of any cost submissions required under subsection (c) above, (Negotiation of Contract Amendments (Change Orders)) and a copy of the cost summary submitted to the owner. The Illinois Auditor General, the owner, the Agency, or any of their authorized representatives shall have access to the books, records, documents, and other evidence for purposes of inspection, audit, and copying. The contractor shall provide facilities for access and inspection.
 - B) For a formally advertised, competitively awarded, fixed price contract, the contractor shall include access to records as specified in subsection (d)(1)(A) above for all negotiated change orders and contract amendments in excess of \$25,000 that affect the contract price. In the case of all other prime contracts, the contractor shall agree to include access to records as specified above in all his contracts and all tier subcontracts or change orders in excess of \$25,000 that are directly related to project

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performance.

- C) Audits shall be consistent with generally accepted auditing standards in accordance with the American Institute of Public Accountants Professional Standards.
- D) The contractor shall agree to the disclosure of all information and reports resulting from access to records pursuant to subsection (d)(1)(A) above. Where the audit concerns the contractor, the auditing agency shall afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.
- E) The records required by subsection (d)(1)(A) above shall be maintained and made available during performance of the work under the loan agreement and for three years after the date of final loan audit. In addition, records that relate to any dispute or litigation or the settlement of claims arising out of any performance, costs or items to which an audit exception has been taken, shall be maintained and made available for three years after resolution of such dispute, appeal, litigation, claim, or exception.
- F) The right of access will generally be exercised with respect to financial records under:
- i) Negotiated prime contractors;
 - ii) Negotiated change orders or contract amendments in excess of \$25,000 affecting the price of any formally advertised, competitively awarded, fixed price contract; and
 - iii) Subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract.
- G) The right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order awarded after effective price competition. In any event, the right of access shall be exercised under any type of contract or subcontract:
- i) With respect to records pertaining directly to contract performance, excluding any financial records of the contractor; and
 - ii) If there is any indication that fraud, gross abuse, or corrupt practices may be involved in the award or performance of the contract or subcontract.
- 2) Covenant against contingent fees
- The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this

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- warranty, the owner shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
- 3) Wage provisions
The contractor shall pay prevailing wages in accordance with the Illinois Prevailing Wage Act [820 ILCS 130].
 - 4) MBE/WBE requirements
The contractor shall provide evidence, including but not limited to a copy of the advertisement(s) and the record of negotiation that it has taken affirmative steps in accordance with federal Executive Orders 11625 and 12138 (Appendix A, Exhibits A and B), to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction and services.
 - 5) Debarment or suspension provisions
The contract shall require the successful bidder(s) to submit a certification of compliance with federal Executive Order 12549 (Appendix A, Exhibit C) regarding debarment, suspension and other responsibility matters.
- e) Subcontracts under Construction Contracts
The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by the prime contractor shall comply with the following:
- 1) All applicable provisions of federal, State and local law;
 - 2) All provisions of this Part 662 regarding fraud and other unlawful or corrupt practices;
 - 3) All provisions of this Part 662 with respect to access to facilities, records and audit of records.
 - 4) Subsection (d)(5) above requires a certification of compliance with federal Executive Order 12549 regarding debarment, suspension, and other responsibility matters.
- f) Contractor Bankruptcy
In the event of a contractor bankruptcy, the loan recipient shall notify the Agency and shall keep the Agency advised of any negotiations with the bonding company, including any proposed settlement. The Agency may participate in those negotiations and will advise the loan recipient of the impact of any proposed settlement to the loan agreement. The loan recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and re-awarding a construction contract.

Section 662.630 Contracts for Personal and Professional Services

All subagreements for personal and professional services for design or construction expected to exceed \$25,000 in the aggregate shall include the

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following subagreement provisions:

- a) Subagreements for personal and professional construction services shall include:

1) Evidence, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with federal Executive Orders 11625 and 12138 (Appendix A, Exhibits A and B), that affirmative steps have been taken to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction, and services;

- 2) An audit and access to records clause that provides as follows:

A) Subsections (a)(2)(B) through (E) below shall be included in all contracts and all subcontracts directly related to project services that are in excess of \$25,000.

B) Books, records, documents and other evidence directly pertinent to performance of FWSLP loan work under this agreement shall be maintained consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The Agency or any of its authorize representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.

C) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards.

D) All information and reports resulting from access to records pursuant to subsection (a)(2)(B) above shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

E) Records under subsection (a)(2)(B) above shall be maintained and made available during performance of project services under this agreement and for three years after the final loan closing. In addition, those records that relate to any dispute pursuant to Section 662.650 (Disputes) or litigation or the settlement of claims arising out of project performance or costs or items to which an audit exception has been taken, shall be maintained and made available for three years after the resolution of the appeal, litigation, claim or exception;

- 3) A "covenant against contingent fees" clause as follows:

"The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting

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bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee";

- 4) A certification of compliance with federal Executive Order 12549 (Appendix A, Exhibit C) regarding debarment, suspension and other responsibility matters;

5) A description of the scope and extent of the project work;

6) The schedule for performance and completion of the contract work including, where appropriate, dates for completion of significant project tasks; and

7) A method of compensation.

b) Subagreements for personal and professional design services shall include the subagreement provisions contained in subsections (a)(2) through (a)(4) above. In addition, the subagreements shall be accompanied by a statement regarding the use of small, minority and women's business during the design service phase.

c) If, at the time of contract execution, any of the elements required in this Section cannot be defined adequately for later tasks, those tasks shall not be included in the contract at that time.

Section 662.640 Compliance with Procurement Requirements for Construction Contracts

- a) Loan Recipient Responsibility

The loan recipient shall be responsible for selecting the low, responsive, and responsible bidder or other contractor in accordance with applicable requirements of State, federal, and local laws and ordinances, as well as for the specific requirements of the loan agreement directly affecting procurement. The loan recipient shall also be responsible for the initial resolution of complaints based upon alleged violations. Any complaints made to the Agency concerning any alleged violation of law in the procurement of construction services or materials for a project involving construction work will be referred to the loan recipient for resolution. The loan recipient shall promptly determine each complaint on its merits, and shall allow the complainant and any other party who may be adversely affected to state in writing or at a conference the basis for their views concerning the proposed procurement. The loan recipient shall promptly furnish to the complainant and to other affected parties, by certified mail, a written summary of its determination, substantiated by an engineering or legal opinion providing a justification for its determination.

- b) Time Limitations

Complaints should be made as early as possible during the procurement process, preferably prior to the bid opening, to avoid disruption of

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the procurement process. The complaint shall be mailed (certified mail, return receipt requested), or otherwise delivered, no later than five working days after the complainant becomes aware of an alleged violation. If there is no agreement between the parties within seven days following the loan applicant's response, unless all bids are rejected, the matter shall be resolved in accordance with subsection (c) below.

c) Remedies

All claims, counter-claims, disputes and other matters in question between the recipient and the contractor arising out of, or relating to, a subagreement or its breach shall be decided by arbitration if the parties agree, or in a court of competent jurisdiction within the State.

d) Deferral of Procurement Action

If the determination of a complaint by the loan recipient is adverse to the complainant, the loan recipient shall defer issuance of its solicitation or award or notice to proceed under the contract (as appropriate) for seven days after mailing or delivery of the determination. If the determination (whether made by the loan recipient, the arbitrator or the court) is favorable to the complainant, the terms of the solicitation shall be revised or the contract shall be awarded, as appropriate, in accordance with the determination.

Section 662.650 Disputes

- a) Only the loan recipient may appeal to the Agency in its own name and for its own benefit, under this provision, with respect to its subagreements. Neither a contractor nor a subcontractor may prosecute an appeal under the disputes provision of a loan in its own name or interest.
- b) Any dispute arising under this loan that is not disposed of by agreement shall be decided by the Director or his or her authorized representative, who shall render a decision in writing and mail or otherwise furnish it to the loan recipient. The decision of the Director shall be in accordance with this Part 662 and shall be final and conclusive.
- c) The disputes clause shall not preclude the Director from considering questions of law in any decision.

Section 662.660 Indemnity

The loan recipient shall assume the entire risk, responsibility and liability for all loss or damage to property owned by the loan recipient, the Agency or by third persons, and for any injury to or death of any persons (including employees of the loan recipient) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of the PWSLP loan. The loan recipient shall indemnify, save harmless and

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defend the State of Illinois and the Agency from all claims for loss, damage, injury or death, whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise, consistent with the provisions of Section 1 of the Construction Contract Indemnification for Negligence Act [740 ILCS 35/1]. The loan recipient shall require that all its contractors and subcontractors agree in writing that they will look solely to the loan recipient for performance of the contract or satisfaction of all claims arising thereunder.

Section 662.670 Covenant Against Contingent Fees

The loan recipient shall warrant that no person or agency has been employed or retained to solicit or secure a PWSLP loan upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the Agency shall have the right to annul the loan in accordance with Section 662.310 or to deduct from the loan, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee.

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION,
CHANGES, COMPLETION AND OPERATION OF PROJECT

Section 662.710 Construction Initiation

Upon approval by the Agency of the loan applicant's financial assistance application in accordance with Section 662.430 (Financial Assistance Application and Approval), and subject to the availability of funds, the Agency will issue the loan agreement and authorize the initiation of construction.

Section 662.720 Project Changes

- a) Prior approval of the Agency is required for any project change that may:
 - 1) Increase the amount of loan funds needed to complete the project;
 - 2) Alter the design or scope of the project;
 - 3) Extend any contract or loan completion date for the project;
 - 4) Alter the location, size, capacity or quality of any major item of equipment; or
 - 5) Alter the scope of the project by changing the methodologies or personnel to be used as agreed to at the time the loan was issued.
- b) The Agency will approve project changes that it determines are cost-effective and within the overall scope of the loan project based on approved project planning.
- c) The loan recipient shall promptly notify the Agency, in writing, of all project changes. Failure to give timely notice of proposed project changes, or action by the loan recipient that is not consistent with the Agency's determination on such changes, may result

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in:

- 1) Disallowance of loan participation for costs incurred that are attributable to the change; and
- 2) Termination of the loan.

Section 662.730 Construction Engineering

The loan recipient shall provide construction engineering and project monitoring to assure that the construction substantially conforms with the approved plans and specifications.

Section 662.740 Operation and Maintenance of the Project

In order for the Agency to approve the final inspection for the project, the loan recipient must certify that it has a certified operator and that it has provided the following training and operation and maintenance documents:

- a) Training pertaining to the proper operation and maintenance of the equipment and process units included in the project.
- b) An operation and maintenance reference library that includes, but is not limited to, the following:
 - 1) Manufacturer's literature, shop drawings and warranties as well as a maintenance schedule for the equipment and process units included in the project;
 - 2) The plans of record with valve indices for the equipment and process units included in the project; and
 - 3) A maintenance schedule for the equipment and process units included in the project.

- c) Training pertaining to the general operation of public water supply facilities or distribution systems, consisting of an operator self-study course such as "Water Treatment Plant Operation," Volumes I and II, or "Small Water System Operation and Maintenance," or "Water Distribution System Operation and Maintenance," California State University, Sacramento or "Water Sources," Part I, or "Water Treatment," Part II, or "Water Transmission and Distribution," Part III, or "Water Quality," Part IV, or "Basic Science Concepts and Applications," Part V, American Water Works Association, Denver, Colorado.

Section 662.750 Final Inspection

The loan recipient shall notify the Agency in writing within 30 days after the completion of project construction and shall submit the final change order, along with the contractor's final costs, to the Agency. The plans of record shall be forwarded to the appropriate Agency regional office. The Agency shall schedule the final inspection within 60 days after the receipt of the notice of completion, provided that all necessary change orders have been submitted and approved.

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SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING AND RECORDS

Section 662.810 Access

- a) The Agency and its designated representatives shall have access, during normal business hours and at any other time during which work is being performed, to the premises where any portion of the work for which the PWSLP loan was provided is being performed. After final loan closing, Agency personnel or any authorized Agency representative shall have access to the project records as defined in Section 662.820 (Audit and Records) of this Part and to the project site during normal business hours, to the full extent of the loan recipient's right to access.
- b) Every contract entered into by the loan recipient for construction work, and every subagreement, shall provide Agency representatives with access to the work. The contractor or subcontractor shall provide facilities for access and inspection. The contract or subagreement shall also provide that the Agency or any authorized representative shall have access to any books, documents, papers and records that are pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions.
- c) Failure by the loan recipient or any of its contractors or subcontractors to provide access after ten days written notice from the Agency shall be cause for termination of the loan pursuant to Section 662.330 (Termination), and refund to the State of Illinois for deposit into the PWSLP any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section shall repay any loan funds previously spent.

Section 662.820 Audit and Records

- a) The loan recipient shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices consistent with generally accepted government accounting standards in accordance with the American Institute of Public Accountants Professional Standards.
- b) The following shall constitute "records" for purposes of this Section:
 - 1) The receipt and disposition by the loan recipient of all assistance received for the project, including both State assistance and any matching share or cost sharing; and
 - 2) The costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the loan has been provided.
- c) The loan recipient's facilities, or any facilities engaged in the performance of the PWSLP loan project, and the loan recipient's records shall be subject to inspection and audit by the Agency or its authorized representative, at the times specified in Section 662.810

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- (Access).
- d) The loan recipient shall preserve and make its records available to the Agency or its authorized representative for the following periods:
 - 1) For all costs associated with design and construction, for 3 years after final loan closing;
 - 2) For all other accounting records concerning the loan, for 3 years from the date of the transaction; and
 - 3) For any longer period required by law or by subsections (e) and (f) below.
 - e) If the loan is completely or partially terminated, the records relating to the terminated work shall be preserved and made available for 3 years after any resulting final termination settlement.
 - f) Records that relate to appeals under the "Disputes" clause, litigation or the settlement of claims arising out of the performance of the PWSLP loan project, or to project costs and expenses to which exception has been taken by the Agency or its authorized representatives, shall be retained until the appeals, litigation, claims, or exceptions have been disposed of.
 - g) Failure of the loan recipient or its contractors or subcontractors to make records available to the Agency as required by Section 662.810 (Access) after 10 days written notice shall be cause for termination of the loan pursuant to Section 662.330 (Termination) and for refund to the State of Illinois for deposit into the PWSLP of any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section shall repay any loan funds previously spent.

Section 662.830 Single Audit Act

The loan recipient shall comply with the provisions of the Single Audit Act of 1996 (31 U.S.C. 7501).

SUBPART I: REQUIREMENTS FOR OPERATION, MAINTENANCE AND
REPLACEMENT REVENUE SYSTEM, FINANCIAL CAPABILITY, DEDICATED
SOURCE OF REVENUE AND FLOODPLAIN INSURANCE

Section 662.910 Operation, Maintenance and Replacement Revenue System

- a) In order for the loan agreement to be issued, the Agency must have approved the loan applicant's proposed source of revenue for operation, maintenance, and replacement (O,M&R) costs. The proposed source of revenue must be enacted and enforceable, if appropriate, before the first loan disbursement can take place.
- b) The Agency shall approve the O,M&R revenue system in accordance with the following criteria:
 - 1) For the first year of operation of new facilities, operation, maintenance and replacement costs shall be based upon past

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- experience or some other rational method that can be demonstrated to be applicable.
- 2) The loan recipient shall review annually and revise periodically the proposed revenue source to reflect actual water works operation, maintenance, and replacement costs. The Agency may request a report on the status of the projected costs, actual costs, revenue generated and fund balances at any time.
 - 3) The proposed revenue source shall generate sufficient revenue to offset the cost of all water works operation, maintenance and replacement required to be provided by the loan recipient.
 - 4) If the project is a regional public water supply facility that distributes water to other public water supplies, appropriate municipal ordinances, intergovernmental agreements or other appropriate authorizations must be submitted.
 - c) Upon approval of a loan recipient's proposed O,M&R revenue source, the implementation and maintenance of the source shall become a condition of the loan subject to Section 662.310 (Noncompliance with Loan Procedures).
 - d) The loan recipient shall maintain records necessary to document compliance in accordance with the Local Records Act [50 ILCS 205].
 - e) The Agency or its authorized representative shall have access to all books, documents, papers, and records of the loan recipient for the purpose of making audit, examination, excerpts, and transcriptions in order to ensure compliance with subsection (b) above.

Section 662.920 Financial Capability

- a) The loan applicant shall demonstrate to the Agency that it has the necessary legal, financial, managerial and institutional capability to:
 - 1) construct, operate and maintain the project for the life of the public water supply facilities;
 - 2) retire the loan, including the execution of any necessary intergovernmental agreements and the enactment of any local legislation necessary to recover adequate capital costs to repay the loan; and
 - 3) meet any covenants and requirements in the loan agreement.
- b) To demonstrate financial, managerial and institutional capability, the applicant shall, at a minimum, show that:
 - 1) It is empowered under law to own, operate and maintain a public water supply facility;
 - 2) It has the necessary easements, titles, permits and intergovernmental agreements for loan project implementation, as identified in the project plan; and
 - 3) It has or will have the necessary qualified personnel to operate and maintain the facility.
- c) The financial capability demonstration shall be submitted to the Agency for approval and shall contain detailed project costs,

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existing and proposed operation, maintenance and replacement costs, existing and proposed local capital costs and historical information over the past five years consisting of audited annual financial statements, bond ratings, number of users and tax rate levies.

- d) The Agency may suggest mitigative measures to improve the loan applicant's financial capability to undertake the project, including but not limited to acquisition of grant funding, reduction of project costs, additional or different sources of dedicated revenues, efforts to reduce the number of delinquent users and changes to existing financial practices that may threaten generation of adequate revenues.
- e) The Agency may require a loan term of less than the 20 year maximum. In evaluating the appropriateness of alternative loan terms, the Agency shall consider such factors as the scope of the proposed project, the impacts of alternative loan terms on user fees, and the overall cost of the project.

Section 662.930 Dedicated Source of Revenue

- a) A source of revenue shall be dedicated and pledged to make the loan repayments. Prior to loan approval, the Agency shall review the proposed dedicated and pledged revenue source to assure that it will generate revenues adequate to make the loan repayments and will provide a continuing source of revenue adequate to make loan repayments for the term of the loan. If the source of revenue is pledged in a subordinate position to a revenue bond ordinance, the covenants regarding coverage and reserve for the revenue source shall be identical to those in the revenue bond ordinance.

- b) The necessary legislative enactments to dedicate and pledge the source of revenue must be in place before the Agency can make the first loan disbursement.

- c) The loan recipient shall establish an account, maintained by a bank or trust, that is restricted to use for loan repayment, in which to deposit the dedicated revenues prior to the time of first loan disbursement.

- d) The loan recipient shall, for the term of the loan, review and adjust the dedicated source of revenue as necessary to provide adequate funds for the repayment of the loan. The recipient shall timely notify, and submit to the Agency for approval, all proposed changes to the dedicated source of revenue.

- e) The loan recipient shall submit to the Agency, upon request, a statement on the status of the restricted account after initiation of the loan repayment period that contains the status of the dedicated revenue account, including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's approval will be based on, but not limited to, ensuring that the revised dedicated source of revenue is legally authorized, generates sufficient revenue and is otherwise in accordance with this Part 662.

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- f) In the event that the actual revenues fall short of the amount required to retire the loan, the Agency will require the loan recipient to re-examine the dedicated revenue source and restructure it as necessary.

Section 662.940 Floodplain Insurance

- a) If the loan project includes insurable structures that will be located within a designated floodplain area as defined in the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127), the loan recipient shall furnish written evidence that it is participating in the National Flood Insurance Program or that the construction areas have received official exclusion from the flood insurance requirements by the Federal Emergency Management Agency.
- b) The loan recipient (or the construction contractor, as appropriate) shall acquire any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, and maintain the insurance for the entire useful life of the insurable structures.
- c) The amount of insurance required shall be the lesser of the total project cost, excluding facilities that are uninsurable under the National Flood Insurance Program, or the maximum limit of coverage made available to the loan recipient under the National Flood Insurance Act of 1968.
- d) The required insurance premium for the period of construction shall be an allowable project cost under Section 662.1010.

SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS**Section 662.1010 Determination of Allowable Costs**

The loan recipient shall be paid, upon request, in accordance with Section 662.1030 (Disbursement of Loan Funds), for all costs that are within the scope of the approved project, not to exceed the total amount of the loan, and that are determined to be allowable in accordance with the following criteria:

- a) Allowable Project Costs

All reasonable and necessary costs directly attributable to the design and construction of an eligible, loan assisted public water supply project, that are not excluded from loan funding by legislation or non-waivable regulations. Categories of necessary costs include, but are not limited to, the following:

- 1) The direct purchase of materials, equipment and personal services specifically necessary for the completion of a loan funded project;
- 2) Professional and consultant services contracts necessary for design, bidding, and construction of a loan funded project, except as elsewhere limited by this Part 662;
- 3) Costs under approved construction contracts; and
- 4) Costs for premiums for required flood insurance during the

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project construction period.

- b) Ineligible Costs
- Categories of costs that are ineligible for loan assistance, and are not subject to the "reasonable and necessary" test of allowability include, but are not limited to, the following:
- 1) Costs for preparing a project planning document;
 - 2) Costs outside the scope of the approved project plan;
 - 3) Site acquisition, including easement compensation;
 - 4) Construction of any facilities that do not clearly fall within the definition of a public water supply facility as contained in the federal Safe Drinking Water Act;
 - 5) Projects whose main purpose is fire protection or servicing future growth.
- c) Disputes Concerning Allowable Costs
- The loan recipient shall seek to resolve any questions relating to cost allowability or allocation at the earliest opportunity. Final determinations by the Director concerning the allowability of costs shall be conclusive.

Section 662.1020 Use of Loan Funds and Payment of Unallowable Costs

- a) Loan funds shall be expended solely for approved allowable costs incurred in the design and construction of the project.
- b) The loan recipient shall agree to pay the unallowable costs associated with the project, as well as all allowable costs that exceed the amount of the loan, and shall construct the project or cause it to be constructed to final completion in accordance with the plans and specifications and on the schedule approved by the Agency.
- c) The loan recipient shall commit itself to complete the construction of the operable public water supply facilities.

Section 662.1030 Disbursement of Loan Funds

- a) Disbursements are subject to the appropriation of funds by the General Assembly and the availability of cash deposited into the PWSLP from drawdowns from the USEPA Automated Clearing House, State matching funds, repayments of existing loans, interest earnings on money in the PWSLP, and money deposited into the PWSLP from other sources.
- b) Disbursements shall be made as follows:
 - 1) After the receipt of a fully executed loan agreement, disbursement requests must be sent directly to the Agency. Actual disbursements shall be processed in accordance with the loan agreement.
 - 2) Disbursements will be processed based on costs incurred that are due and payable as evidenced by invoices. The Agency may withhold any disbursement for a violation of the loan agreement conditions.
- c) The loan recipient shall make prompt payment to the contractor.

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- d) The State share of any refunds, rebates, credits or other amounts (including any interest) accruing to or received by the loan recipient with respect to the project that are properly allocable to costs for which loan funds have been disbursed must be paid, minus any reasonable expenses incurred in securing these funds, to the State of Illinois for deposit in the PWSLP.
- e) Before the final principal amount of the loan can be established:
 - 1) The Agency must conduct a final inspection and a project review to insure that all applicable loan conditions have been satisfied; and
 - 2) The loan recipient must submit to the Agency a final waiver from the contractor and a Certification of Payment that all bills have been paid.
- f) The loan recipient shall also submit a release, discharging the State of Illinois, its officers, agents and employees from all liabilities, obligations and claims arising out of the project work or under the loan, subject only to such exceptions which may be specified in the release.
- g) Any use of loan funds at variance with this Part 662 shall result in repayment of those loan funds to the State of Illinois for deposit into the PWSLP.

SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

Section 662.1110 Loan Repayment to the Agency

Loan repayment to the Agency shall be in accordance with the loan repayment schedule contained in the loan agreement.

- a) Loan repayments shall commence not later than 6 months after the initiation of the loan repayment period and shall be due semi-annually unless the Agency determines that the dedicated source of revenue justifies an alternative repayment plan.
- b) After the initiation of the loan repayment period date in the loan agreement, the Agency shall set a principal amount and give the loan recipient an interim repayment schedule.
- c) After a final cost review of the project, the Agency shall establish the final principal amount and give the loan recipient a final repayment schedule.

Section 662.1120 Delinquent Loan Repayments

- a) If a repayment is not made according to the repayment schedule, the loan recipient shall notify the Agency in writing within 15 days after the repayment due date. The notification shall state the reasons the repayment was not timely tendered and the circumstances under which the late repayment will be satisfied, and shall contain binding commitments to assure future repayments. After receipt of this

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notification, the Agency shall accept the plan or take action in accordance with subsection (b) below.

- b) If a loan recipient fails to comply with subsection (a) above, the Agency shall promptly issue a notice of delinquency to the loan recipient and require a written response within 30 days. The notice of delinquency shall require the loan recipient to revise its rates, fees and charges to meet its obligations or to take other specified actions as may be appropriate to remedy the delinquency and to assure future repayments.
- c) In the event that the loan recipient fails to timely or adequately respond to a notice of delinquency, or fails to meet any obligations pursuant to subsections (a) and (b) above, the Agency shall pursue the collection of the amounts past due, the outstanding loan balance and the costs incurred thereby, either pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210] or by any other lawful means.

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Section 662.APPENDIX A Executive Orders

Section 662.EXHIBIT A Executive Order 11625

October 14, 1971, 36 F.R. 19967

PREScribing ADDITIONAL ARRANGEMENTS FOR DEVELOPING
AND COORDINATING A NATIONAL PROGRAM FOR
MINORITY BUSINESS ENTERPRISE

The opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic justice for such persons and improve the functioning of our national economy.

The Office of Minority Business Enterprise, established in 1969, greatly facilitated the strengthening and expansion of our minority enterprise program. In order to take full advantage of resources and opportunities in the minority enterprise field, we now must build on this foundation. One important way of improving our efforts is by clarifying the authority of the Secretary of Commerce (a) to implement Federal policy in support of the minority business enterprise program; (b) to provide additional technical and management assistance to disadvantaged businesses; (c) to assist in demonstration projects; and (d) to coordinate the participation of all Federal departments and agencies in an increased minority enterprise effort.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. Functions of the Secretary of Commerce.

- a) The Secretary of Commerce (hereinafter referred to as "the Secretary") shall -
 - 1) Coordinate as consistent with law the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise.
 - 2) Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies.
 - 3) Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting the establishment and successful

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operation of minority business enterprise.

- 4) Within constraints of law and appropriations therefor, and according to his discretion, provide financial assistance to public and private organizations so that they may render technical and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration projects conducted by public or private agencies or organizations which are designed to overcome the special problems of minority business enterprises or otherwise to further the purposes of this Order.

- b) The Secretary, as he deems necessary or appropriate to enable him to better fulfill the responsibilities vested in him by subsection (a), may -

- 1) With the participation of other Federal departments and agencies as appropriate, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of Federal support in achieving the objectives established by this Order.
- 2) Require a coordinated review of all proposed Federal training and technical assistance activities in direct support of the minority enterprise program to assure consistency with program goals and to avoid duplication.
- 3) Convene, for purposes of coordination, meetings of the heads of such departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this Order.
- 4) Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating governmental and private activities in furtherance of the objectives of this Order.
- 5) Confer with and advise officials of State and local governments.
- 6) Provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or agencies or private organizations can be planned and implemented.
- 7) Recommend appropriate legislative or executive action.

Section 2. Advisory Council for Minority Enterprise.

- a) The Advisory Council for Minority Enterprise (hereinafter referred to as "the Council"), established by Executive Order no. 11458 of March 5, 1969, (11) shall continue in existence under the terms of this Order.
- b) The Council shall be composed of members appointed by the President from among persons, including members of minority groups and representatives from minority business enterprises, who are

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knowledgeable in this field and who are dedicated to the purpose of this Order. These members shall serve for a term of two years and may be reappointed.

- c) The President shall designate one of the members of the Council as the Chairman of the Council.
- d) The Council shall meet at the call of the Secretary.
- e) The Council shall be advisory to the Secretary in which capacity it shall -

- 1) Serve as a source of knowledge and information on developments in different fields and segments of our economic and social life which affect minority business enterprise.
- 2) Keep abreast of plans, programs, and activities in the public and private sectors which relate to minority business enterprise, and advise the Secretary on any measures to better achieve the objectives of this Order.
- 3) Consider, and advise the Secretary, and such officials as he may designate, on problems and matters referred to the Council.
- f) For the purposes of Executive Order No. 11007 of February 26, 1962, (12) the Council shall be deemed to have been formed by the Secretary.
- g) Members of the Council shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5708) for persons in the Government service employed intermittently.
- h) The Secretary shall arrange for administrative support of the Council to the extent necessary, including use of any gifts or bequests accepted by the Department of Commerce pursuant to law.

Section 3. Responsibilities of Other Federal Departments and Agencies.

- a) The head of each Federal department and agency, or a representative designated by him, when and in the manner so requested by the Secretary, shall furnish information, assistance, and reports to, and shall otherwise cooperate with, the Secretary in the performance of his functions hereunder.
- b) The head of each Federal department or agency shall, when so requested by the Secretary, designate his Under Secretary or such other similar official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise.
- c) The officials designated under the preceding paragraph, when so requested, shall review and report to the Secretary upon the policies and programs of the minority business enterprise program, and shall keep the Secretary informed of all proposed budgets, plans and programs of his department or agency affecting minority business enterprise.
- d) The head of each Federal department or agency, or a representative designated by him, shall, to the extent provided under regulations issued by the Secretary after consultation with the official

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designated in paragraph (b) above, report to the Secretary on any activity that falls within the scope of the minority business enterprise program as defined herein and in those regulations.

e) Each Federal department or agency shall, within constraints of law and appropriations therefor, continue all current efforts to foster and promote minority business enterprises and to support the program herein set forth, and shall cooperate with the Secretary of Commerce in increasing the total Federal effort.

Section 4. Reports.

The Secretary shall, no later than 120 days after the close of each fiscal year, submit to the President a full report of his activities hereunder during the previous fiscal year. Further, the Secretary shall, from time to time, submit to the President his recommendations for legislation or other action as he deems desirable to promote the purposes of this Order. Each Federal department or agency shall report to the Secretary as hereinabove provided on a timely basis so that the Secretary may consider such reports for his report and recommendations to the President. Each Federal department or agency shall develop and implement systematic data collection processes which will provide to the Office of Minority Business Enterprise Information Center current data helpful in evaluating and promoting the efforts herein described.

Section 5. Policies and Standards.

The Secretary may establish such policies, standards, definitions, criteria, and procedures to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps as he may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

Section 6. Definitions.

For purposes of this Order, the following definitions shall apply:

- a) "Minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts.
- b) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

Section 7. Construction.

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Nothing in this Order shall be construed as subjecting any function vested in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or office exclusively, or as abrogating or restricting any such function in any manner.

Section 8. Prior Executive Order

Executive Order No. 11458 of March 5, 1969, (13) is hereby superseded.

THE WHITE HOUSE

RICHARD NIXON

October 13, 1971.

(11) 15 U.S.C.A. Section 631 note.

(12) 5 U.S.C.A. Section 901 note.

(13) 15 U.S.C.A. Section 631 note.

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Section 552.EXHIBIT B Executive Order 12138

May 18, 1979, 44 F.R. 29637

CREATING A NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY
AND PRESCRIBING ARRANGEMENTS FOR DEVELOPING, COORDINATING
AND IMPLEMENTATING A NATIONAL PROGRAM FOR WOMEN'S BUSINESS
ENTERPRISE

In response to the findings of the Interagency Task Force on Women Business Owners and congressional findings that recognize:

- 1) the significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;
- 2) the many obstacles facing women entrepreneurs; and
- 3) the need to aid and stimulate women's business enterprise;

By the authority vested in me as President of the United States of America, in order to create a National Women's Business Enterprise Policy and to prescribe arrangements for developing, coordinating and implementing a national program for women's business enterprise, it is ordered as follows:

1-1. Responsibilities of the Federal Departments and Agencies.

1-101. Within the constraints of statutory authority and as otherwise permitted by law:

- a) Each department and agency of the Executive Branch shall take appropriate action to facilitate, preserve and strengthen women's business enterprise and to ensure full participation by women in the free enterprise system.
- b) Each department and agency shall take affirmative action in support of women's business enterprise in appropriate programs and activities including but not limited to:
 - 1) management, technical, financial and procurement assistance,
 - 2) business-related education, training, counseling and information dissemination, and
 - 3) procurement.
- c) Each department or agency empowered to extend Federal financial assistance to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex. For purposes of this subsection, Federal financial assistance means assistance extended by way of grant, cooperative agreement, loan or contract other than a contract of insurance or guaranty. These regulations shall prescribe

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sanctions for noncompliance. Unless otherwise specified by law, no agency sanctions shall be applied until the agency or department concerned has advised the appropriate person or persons of the failure to comply with its regulations and has determined that compliance cannot be secured by voluntary means.

1-102. For purposes of the Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special need for women's business enterprise, establishing incentives to promote business or business-related opportunities for women's business enterprise, collecting and disseminating information in support of women's business enterprise, and insuring to women's business enterprise knowledge of and ready access to business-related services and resources. If, in implementing this Order, an agency undertakes to use or to require compliance with numerical set-asides, or similar measures, it shall state the purpose of such measure, and the measure shall be designed on the basis of pertinent factual findings of discrimination against women's business enterprise and the need for such measure.

1-103. In carrying out their responsibilities under Section 1-1, the departments and agencies shall consult the Department of Justice, and the Department of Justice shall provide legal guidance concerning these responsibilities.

1-2. Establishment of the Interagency Committee on Women's Business Enterprise.

1-201. To help insure that the actions ordered above are carried out in an effective manner, I hereby establish the Interagency Committee on Women's Business Enterprise (hereinafter called the Committee).

1-202. The Chairperson of the Committee (hereinafter called the Chairperson) shall be appointed by the President. The Chairperson shall be the presiding officer of the Committee and shall have such duties as prescribed in this Order or by the Committee in its rules of procedure. The Chairperson may also represent his or her department, agency or office on the Committee.

1-203. The Committee shall be composed of the Chairperson and other members appointed by the heads of departments and agencies from among high level policy-making officials. In making these appointments, the recommendations of the Chairperson shall be taken into consideration. The following departments and agencies and such other departments and agencies as the Chairperson shall select shall be members of the Committee: the Departments of Agriculture; Commerce; Defense; Energy; Health, Education, and Welfare; Housing and Urban Development;

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Interior; Justice; Labor; Transportation; Treasury; the Federal Trade Commission; General Services Administration; National Science Foundation; Office of Federal Procurement Policy; and the Small Business Administration. These members shall have a vote. Nonvoting members shall include the Executive Director of the Committee and at least one but no more than three representatives from the Executive Office of the President appointed by the President.

1-204. The Committee shall meet at least quarterly at the call of the Chairperson, and at such other times as may be determined to be useful according to the rules of procedure adopted by the Committee.

1-205. The Administrator of the Small Business Administration shall provide an Executive Director and adequate staff and administrative support for the Committee. The staff shall be located in the Office of the Chief Counsel for Advocacy of the Small Business Administration, or in such other office as may be established specifically to further the policies expressed herein. Nothing in this Section prohibits the use of other properly available funds and resources in support of the Committee.

1-3. Functions of the Committee.

The Committee shall in a manner consistent with law:

1-301. Promote, coordinate and monitor the plans, programs and operations of the departments and agencies of the Executive Branch which may contribute to the establishment, preservation and strengthening of women's business enterprise. It may, as appropriate, develop comprehensive interagency plans and specific program goals for women's business enterprise with the cooperation of the departments and agencies.

1-302. Establish such policies, definitions, procedures and guidelines to govern the implementation, interpretation and application of this order, and generally perform such functions and take such steps as the Committee may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

1-303. Promote the mobilization of activities and resources of State and local governments, business and trade associations, private industry, colleges and universities, foundations, professional organizations, and volunteer and other groups toward the growth of women's business enterprise, and facilitate the coordination of the efforts of these groups with those of the departments and agencies.

1-304. Make an annual assessment of the progress made in the

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Federal Government toward assisting women's business enterprise to enter the mainstream of business ownership and to provide recommendations for future actions to the President.

1-305. Convene and consult as necessary with persons inside and outside government to develop and promote new ideas concerning the development of women's business enterprise.

1-306. Consider the findings and recommendations of government and private sector investigations and studies of the problems of women entrepreneurs, and promote further research into such problems.

1-307. Design a comprehensive and innovative plan for a joint Federal and private sector effort to develop increased numbers of new women-owned businesses and larger and more successful women-owned businesses. The plan should set specific reasonable targets which can be achieved at reasonable and identifiable costs and should provide for the measurement of progress towards these targets at the end of two and five years. Related outcomes such as income and tax revenues generated, jobs created, new products and services introduced or new domestic or foreign markets created should also be projected and measured in relation to costs wherever possible. The Committee should submit the plan to the President for approval within six months of the effective date of this Order.

1-4. Other Responsibilities of the Federal Departments and Agencies.

1-401. The head of each department and agency shall designate a high level official to have the responsibility for the participation and cooperation of that department or agency in carrying out this Executive Order. This person may be the same person who is the department or agency's representative to the Committee.

1-402. To the extent permitted by law, each department and agency upon request by the Chairperson shall furnish information, assistance and reports and otherwise cooperate with the Chairperson and the Committee in the performance of their functions hereunder. Each department or agency shall ensure that systematic data collection processes are capable of providing the Committee current data helpful in evaluating and promoting the efforts herein described.

1-403. The officials designated under Section 1-401, when so requested, shall review the policies and programs of the women's business enterprise program, and shall keep the Chairperson informed of proposed budget, plans and programs of their departments or agencies affecting women's business enterprise.

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1-404. Each Federal department or agency, within constraints of law, shall continue current efforts to foster and promote women's business enterprise and to support the program herein set forth, and shall cooperate with the Chairperson and the Committee in increasing the total Federal effort.

1-5. Reports.

1-501. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report of the activities of the Committee hereunder during the previous fiscal year. Further, the Chairperson shall, from time to time, submit to the President the Committee's recommendations for legislation or other action to promote the purposes of this Order.

1-502. Each Federal department and agency shall report to the Chairperson as hereinabove provided on a timely basis so that the Chairperson and the Committee can consider such reports for the Committee report to the President.

1-6. Definitions.

For the purposes of this Order, the following definitions shall apply:

1-601. "Women-owned business" means a business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

1-602. "Women's business enterprise" means a woman-owned business or businesses or the efforts of a woman or women to establish, maintain or develop such a business or businesses.

1-603. Nothing in subsections 1-601 or 1-602 of this Section 1-6 should be construed to prohibit the use of other definitions of a woman-owned business or women's business enterprise by departments and agencies of the Executive Branch where other definitions are deemed reasonable and useful for any purpose not inconsistent with the purposes of this Order. Wherever feasible, departments and agencies should use the definition of a woman-owned business in subsection 1-601 above for monitoring performance with respect to women's business enterprise in order to assure comparability of data throughout the Federal Government.

1-7. Construction.

Nothing in this Order shall be construed as limiting the meaning or effect of any existing Executive Order.

THE WHITE HOUSE

May 18, 1979.

JIMMY CARTER

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

Section 662.EXHIBIT C Executive Order 12549

February 18, 1986, 51 F.R. 6370

DEBARMENT AND SUSPENSION

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1.

- a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.
- b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.
- c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Section 2. To the extent permitted by law, Executive departments and agencies shall:

- a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.
- b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.
- c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that

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exceptions to this policy should be granted only infrequently.

Section 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Section 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Section 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Section 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

Section 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make such recommendations as are appropriate further to curb fraud, waste, and abuse.

THE WHITE HOUSE

RONALD REAGAN

February 18, 1986.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Youth Hunting Season for White-Tailed Deer

2) Code Citation: 17 Ill. Adm. Code 685

3) Section Numbers: Proposed Action:
685.10 Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36].

5) A Complete Description of the Subjects and Issues Involved: When this rule was adopted the hunt was held on the weekend after October 11, which was the Saturday and Sunday before the Columbus Day Holiday. It has been determined that the hunt should continue to be held on this weekend. To eliminate the necessity of amending this rule annually, the date is being removed and language indicating that the hunt will be held on the weekend preceding the Columbus Day holiday is being added.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
 SUBCHAPTER b: FISH AND WILDLIFE
 PART 685
 YOUTH HUNTING SEASON FOR WHITE-TAILED DEER

Section

- 685.10 Statewide Season
 685.20 Statewide Deer Permit Requirements
 685.30 Statewide Firearm Requirements for Hunting the Youth Deer Season
 685.40 Statewide Deer Hunting Rules
 685.50 Reporting Harvest
 685.60 Rejection of Application/Revocation of Permits
 685.70 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36].

SOURCE: Adopted at 20 Ill. Reg. 12452, effective August 30, 1996; amended at 21 Ill. Reg. _____, effective _____.

Section 685.10 Statewide Season

- a) Season: Noon on Saturday of the State designated **first--weekend** Columbus Day Holiday weekend (~~Saturday-and-Sunday~~) **that-begins-after** ~~October-11~~ to sunset on Sunday of that **this** weekend. Shooting hours are one-half hour before sunrise to sunset.
- b) The Department of Natural Resources (Department) shall open a select county or counties to harvest surplus deer via youth deer hunting using shotgun or muzzleloader. The Department shall notify the public which county or counties will be open via a news release.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Procedures
 2) Code Citation: 86 Ill. Adm. Code 1910
 3) Section Numbers: Adopted Action:
 1910.30 Amended
 1910.66 Amended
 1910.67 Amended
 1910.75 Amended
 1910.76 New Section
 1910.80 Amended

- 4) Statutory Authority: 35 ILCS 200/Art.7 and 16-180 through 16-195

- 5) A Complete Description of the Subjects and Issues Involved: Section 1910.30 Petitions - Applications: This Section is amended to replace language pertaining to the submission of photographs of the subject property which is the subject of the appeal. The new language states that a photograph "should" be submitted when beneficial, which replaces the language stating a photograph "shall" be submitted.

Section 1910.66 Rebuttal Evidence: This Section is amended to clarify the Board's policy on the submission of rebuttal evidence. More specifically, the procedure of calculating the 30-day time period is clarified.

Section 1910.67 Hearings: This Section is amended to strengthen and expand the authority of our hearing officers with current practices and to eliminate duplicative wording.

Section 1910.75 Access to Board Records: This Section is amended to establish a formal policy and procedure for the Board to accept and properly respond to requests from the public regarding information covered under the Freedom of Information Act. This Section is also designed to establish a policy which will be in compliance with the Freedom of Information Act. In addition, subsections (b) and (c) are deleted, while subsection (b) is replaced and renumbered in Section 1910.76.

Section 1910.76 Publication of Annual Synopsis: This Section is moved from Section 1910.75 and amended to make copies of the synopsis available to the public at no charge.

Section 1910.80 Forms: This Section is amended to make grammatical and technical changes in the wording of the language. The county assessor's office's title was also added to reflect the appropriate title of the chief assessment officer in Cook County.

- 6) Will these proposed amendments replace emergency rules currently in effect? No

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- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section Number: Proposed Action: Illinois Register Citation:

1910.50 Amended 21 Ill. Reg. 05692

1910.75 Amended 21 Ill. Reg. 05692

- 10) Statement of Statewide Policy Objectives: This rulemaking will not modify or expand a state mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may comment on this proposed rulemaking by filing such comments in writing during the first notice period with the Property Tax Appeal Board at its offices in Springfield:

James W. Chipman - Executive Director
Property Tax Appeal Board
Rm. 402, Stratton Office Building
401 S. Spring St.
Springfield, Illinois 62706
(217)782-6076

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: All small businesses owning taxable real property in Illinois.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: These rules were not included on the most recent agenda because: The Property Tax Appeal Board did not anticipate this rulemaking at the time the most recent agendas were published.

The full text of the Proposed Amendments begins on the next page:

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER II: PROPERTY TAX APPEAL BOARD

PART 1910
PROCEDURES

Section

1910.5 Construction and Definitions

1910.10 Statement of Policy

1910.20 Correspondence

1910.25 Computing Time Limits

1910.30 Petitions - Application

1910.40 Board of Review Response to Petition Application

1910.50 Determination of Appealed Assessment

1910.60 Interested Parties - Intervention

1910.63 Burdens of Proof

1910.65 Documentary Evidence

1910.66 Rebuttal Evidence

1910.67 Hearings

1910.68 Subpoenas

1910.69 Sanctions

1910.70 Representation at Hearings

1910.75 Access to Board Records - Freedom of Information Procedures

1910.76 Publication of Annual Synopsis

1910.80 Forms

1910.90 Practice Rules

1910.95 Separability

AUTHORITY: Implementing and authorized by Article 7 and Sections 16-180 through 16-195 of the Property Tax Code [35 ILCS 200/Art. 7 and 16-180 through 16-195].

SOURCE: Adopted at 4 Ill. Reg. 23, p. 106, effective May 27, 1980; codified at 8 Ill. Reg. 19475; amended at 13 Ill. Reg. 16454, effective January 1, 1990; amended at 21 Ill. Reg. 3706, effective March 6, 1997; amended at 21 Ill. Reg. _____, effective _____.

Section 1910.30 Petitions - Application

- a) Petitions for appeal shall be filed within 30 days after the postmark date or personal service date of written notice of the decision of the board of review (Section 12-50 of the Code). Petitions sent by mail shall be considered as filed on the date postmarked. Faxed petitions and evidence will not be accepted by the Board.
- b) Petitions for appeal shall be filed within 30 days after the postmark date or personal service date of written notice of the application of final adopted township equalization factors by the board of review. Petitions sent by mail shall be considered as filed on the date

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postmarked. Faxed petitions and evidence will not be accepted by the Board.

- c) The petition for appeal shall be on the prescribed form and a separate petition must be filed for each separately assessed parcel except for condominium buildings or unless a written request is made to the Board for the filing of a single petition for multiple parcels. Such request, together with the petition, shall be filed within 30 days after the postmark date or personal service of written notice of the decision of the board of review. Each petition shall identify and describe the particular property including the PIN or plate number, if any, assigned to the subject parcel by the county. In appeals where multiple parcels are consolidated into a single petition, the assessed values and the relief requested for each individual parcel must be separately listed.
- d) Each copy of petitions filed with the Property Tax Appeal Board shall bear an original signature of the contesting party or his attorney, and shall be filed with the Clerk of the Property Tax Appeal Board.
- e) A copy of the written notice of the decision of the board of review shall be filed with the petition, if one has been issued.
- f) Petitions for appeal shall be filed in triplicate and all copies of the same shall be properly signed as stated in subsection (d) of this Section. All written and documentary evidence must be submitted in duplicate with the petition. A photograph of the subject property should ~~shall~~ be submitted with the petition if it aids the petitioner in explaining the appeal.
- g) If the contesting party is unable to submit written or documentary evidence with the petition, he must submit a letter requesting an extension of time with the petition. Upon receipt of such a request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include but is not limited to the inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the petition is filed. Evidence sent by mail shall be considered as filed on the date postmarked.
- h) Every petition for appeal shall state the facts upon which the contesting party bases his objection to the decision of the board of review, together with a statement of the contentions of law which he desires to raise. Each petition must also set forth the assessment for the subject property which the contesting party considers to be correct. If contentions of law are raised, the contesting party shall submit a brief in support of his position with the petition. Extensions of time shall be granted in accordance with subsection (g) of this Section. Failure to do so shall result in dismissal of the appeal.
- i) Every petition for appeal shall give the post office address where

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mail addressed to the contesting party may be received by him or his attorney, together with his telephone number. The Property Tax Appeal Board must be notified in writing by any party of a change of address within 60 days of any such change.

- j) The petition shall in all cases state the assessed value of the land, and the assessed value of the improvements (structures), and the total assessed value as placed on the property by the local assessor and by the board of review. The petition must also state the assessed valuation which the contesting party claims to be correct.
- k) All information required to fully complete the petition shall be furnished by the contesting party at the time the petition is filed. Incomplete petitions and/or a letter shall be returned with an explanation of the reasons for the rejection. The contesting party must resubmit the corrected petition within 20 days after the date of the return of the petition. If the returned petition is not resubmitted within the 20 day period, the appeal will be dismissed from consideration by the Board. Petitions which are not signed, petitions which do not state the assessed valuation assigned by the local assessor and the board of review, petitions which do not state the assessed valuation considered correct by the contesting party, and petitions not containing all information as required herein, shall be treated as incomplete petitions. Written or documentary evidence will be accepted after receipt of a completed petition only when a letter requesting an extension of time was received and granted.
- l) Upon receipt of a completed petition, including the written and documentary evidence from the contesting party, the Clerk of the Property Tax Appeal Board shall send a copy of the petition to the board of review and to the State's Attorney of the county in which the property is located. The Clerk shall cause the petition to become a part of such appeal proceedings and record.
- m) If the petition for appeal is filed by an interested taxing body, rather than by the taxpayer whose assessment is in question, the taxing body must furnish the name and address of the owner of the property in question. A copy of such completed petition shall then be sent to the owner of the property. Any petition filed without the name and address of the owner of the property in question shall be treated as an incomplete petition in accordance with subsection (k) of this Section.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1910.66 Rebuttal Evidence

- a) Upon receipt of the argument and accompanying documentation filed by a party, any other party may, within 30 days after the postmark date of the Board's notice ~~after--receipt--~~, file written or documentary rebuttal evidence. Rebuttal evidence shall consist of written or

PROPERTY TAX APPEAL BOARD

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documentary evidence submitted to explain, repel, counteract or disprove facts given in evidence by an adverse party and must tend to explain or contradict or disprove evidence offered by an adverse party.

- b) Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1910.67 Hearings

- a) By statute, the Property Tax Appeal Board may render a decision based upon the evidence, exhibits and briefs submitted to it by all interested parties without holding a hearing.

- b) The Property Tax Appeal Board shall review all appeals filed in compliance with these rules to determine whether a hearing shall be held on any factual or legal issue. Whenever the Board determines that a hearing is not required, the appeal shall be decided based upon the evidence in the record. The Board shall hold a hearing at the request of any party in writing. In the event a hearing is deemed necessary, the Board shall give notice to all parties to the appeal of the time, date, and place of the hearing hearings at least 20 days prior to the hearing, unless the 20 day period is specifically waived by all the parties to the appeal.

- c) A party may request a decision of the Property Tax Appeal Board based upon the evidence in the record by filing a written request with the Board. Any such request shall not be binding on the Board.

- d) Notice of a hearing to all interested taxing bodies by the Property Tax Appeal Board shall be deemed to have been given when served upon the State's Attorney of the county from which the appeal has been taken, unless such interested taxing bodies have specifically been made parties to the appeal proceeding.

- e) In all cases where a change in assessed valuation of \$300,000 or more is sought, the Property Tax Appeal Board shall order a prehearing conference on the motion of any party to the appeal. In all appeals the Board may set a prehearing conference to promote the narrowing of issues, stipulations, and judicial economy. The Board's determination will be based on the complexity of the appeal, the issues in controversy, and the potential for settlement. This hearing will be designed to ascertain the positions of the parties and to reach agreements on stipulations of fact, admission of documents and all other matters that will expedite the hearing and determination of the appeal whenever the cases have been set for hearing by the Board and one or more factual or legal issues exist which can be resolved at a prehearing conference. The Board shall issue a prehearing order

PROPERTY TAX APPEAL BOARD

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resolving matters agreed to and rulings as to disputed matters. The order shall be served at the same time upon all parties and shall control the subsequent course of the proceeding.

- f) Hearings may be held before less than a majority of the Members of the Board, and the Chairman may assign Members or Hearing Officers to hold hearings. Any hearing may be conducted by the Property Tax Appeal Board at its offices in Springfield or Des Plaines or at any other location in Illinois selected by the Board. The Board may cause its Hearing Officer to conduct such hearing and report his findings for affirmation or rejection by the Board.

- g) Hearings shall be open to the public and shall be conducted in accordance with such rules of practice and procedure as the Board may make and promulgate.

- h) Authority of the Board and designated Hearing Officers Power-of-the-Property-Tax-Appeal-Board-during-hearings.

- 1) In connection with any proceeding, the Board, or any of its designated Hearing Officers, shall have full authority over the conduct of a hearing and the responsibility for submission of the matter to the Board for decision. The Board or its designated Hearing Officer shall have those duties and powers necessary to these ends, including to:

- A) To conduct hearings and pre-hearing conferences conduct--and control-the-procedure-of-the-hearing;

- B) To admit or exclude testimony or other evidence into the record pursuant to this part;

- C) To administer Administer oaths and affirmations and examine all persons appearing at the hearing to testify or to offer evidence;

- D) To require Require the production of any book, record, paper or document at any stage of the appeal or of the hearing which is the foundation for any evidence or testimony presented in the appeal; and

- E) To require Require the submission of briefs on issues of law raised during the hearing within 60 days after the termination of the hearing;

- F) To call upon any person at any stage of the hearing to produce witnesses or information that is material and relevant to any issue; and

- G) To ensure that the hearing is conducted in a full, fair and impartial manner, that order is maintained, and that unnecessary delay is avoided in the disposition of the hearing.

- 2) Any Hearing Officer assigned to conduct a hearing on behalf of the Board the-Board-shall-cause-its-Hearing-Officer--to--conduct-hearings-on-its-behalf-and-report-his-findings-for-affirmation-or-rejection--- Any such Hearing Officer shall be empowered to exercise the full authority of the Board with respect to the conduct and control of the proceeding.

PROPERTY TAX APPEAL BOARD

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- i) Continuances shall be granted for good cause shown in writing, and then only on an order of a Member of the Property Tax Appeal Board, or a duly authorized Hearing Officer. Good cause shall be the inability to attend the hearing at the date and time set by the Board for a cause beyond the control of the party, such as the unavoidable absence of a party, his attorney or material witness, or the serious illness or death of a witness or party. The Board shall set the hearing of a continued case at the time it sets other hearings of appeals from the county in which the subject of the continued appeal lies, unless the parties request that the Board decide the appeal based upon the evidence in the record without a formal hearing.
- j) At the hearing, the contesting party shall first introduce his case into evidence, followed by the evidence of other parties to the appeal, in the order directed by the Property Tax Appeal Board or Hearing Officer. All parties are entitled to a rebuttal after all evidence of all parties has been introduced. Evidence submitted to the Board in documentary form may be made a part of the record without the document being read into the record if the Board or Hearing Officer so orders.
- k) In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless:
- 1) Such evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part;
 - 2) The filing requirement is specifically waived by the Board; or
 - 3) The submission of the written or documentary evidence is specifically ordered by the Board or by a Hearing Officer.
- l) Appraisal testimony offered to prove the valuation asserted by any party shall not be accepted at the hearing unless a documented appraisal has been timely submitted by that party pursuant to this Part. Appraisal testimony offered to prove the valuation asserted may only be given by a preparer of the documented appraisal whose signature appears thereon.
- m) All testimony taken at the hearing shall be under oath or affirmation. The Board shall eliminate such rules of evidence, practice and procedure to the extent it considers practicable.
- n) In all cases where the contesting party is seeking a change of \$100,000 or more in assessed valuation, the contesting party must provide a court reporter at his own expense. The original certified transcript of such hearing shall be forwarded to the Property Tax Appeal Board and shall become part of the Board's official record of the proceedings on appeal. The court reporter's certified transcript should be forwarded as soon as possible but no later than within 60 days after the hearing.
- o) If a stipulation is agreed to by all interested parties, it may be taken into consideration by the Property Tax Appeal Board but must be supported by evidence in the record. The Board reserves the right to write a decision based on the facts, evidence and exhibits in the record.

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(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1910.75 Access to Board Records - Freedom of Information Procedures**a) Board Policy.**

This Section is established to implement the provisions of the Freedom of Information Act [5 ILCS 140]. The purpose of this Section is to support the policy of providing public access to public records in the possession of the Property Tax Appeal Board while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency.

b) Definitions.

- 1) FOIA - the Freedom of Information Act.
- 2) Freedom of Information Officer - the individual responsible for receiving and responding to requests for public records.
- 3) Requester - a person who submits a request for public records in accordance with this Section.
- 4) Working days - calendar days other than Saturdays and Sundays and legal State holidays.

c) Person to whom requests are submitted.

Requests for public records shall be submitted to the Freedom of Information Officer of the Board. Requests shall be submitted to the following address:

Freedom of Information Officer
Illinois Property Tax Appeal Board
402 Stratton Building
401 South Spring Street
Springfield IL 62706
ATTN: FOIA Request

d) Form and contents of requests.

- 1) Requests in accordance with the FOIA and this Section shall be in writing. Such requests shall be submitted on FOIA request forms provided by the Board.
- 2) Oral requests are not precluded by the FOIA; neither are they governed by it.
- 3) The requester shall provide the following information in a request for public records:
 - A) The requester's full name, address, and telephone number;
 - B) A brief description of the public records sought, being as specific as possible; and
 - C) Whether the request is for inspection of public records, copies of public records, or both.
- e) Inspection of records at the Board's offices.
 - 1) Generally, public records will be available for inspection at the Board's offices in Springfield or Des Plaines between the hours

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of 8:30 AM and 5:00 PM Monday through Friday, except on State holidays. Space will be provided for the requester to inspect public records.

- 2) An employee of the Board may be present throughout the inspection.
- 3) A requester shall not be permitted to take briefcases, bags, folders or other similar materials, or pens, into the inspection area.
- 4) A requester will be permitted to take pencils and paper into the inspection area.
- 5) Documents which the requester wishes to have copied shall be segregated during the course of inspection. Generally, all copying will be done by Board employees.

f) Copies of public records.

- 1) Copies of public records shall be provided to the requester only upon payment of any charges that are due.
- 2) Fees for copies of public records shall be assessed in accordance with Section 6(a) of the FOIA. A schedule of fees will be available in each of the Board's offices as required by Section 4 of the FOIA. Fees may be reduced or waived if the requester satisfies the criteria set forth in Section 6(b) of the FOIA.
- 3) Fees may be waived if the requester is a State agency, a constitutional officer, or member of the General Assembly.
- 4) Payment shall be made by check or money order payable to the Illinois Property Tax Appeal Board and sent to the Freedom of Information Officer.
- 5) If the requester is unwilling or unable to pick up the copies of requested records at the Board's offices, the requester shall bear mailing or shipping costs.

g) Time for response.

- 1) The Freedom of Information Officer shall respond to a written request for public records within 7 working days after receipt of such request.
- 2) In the event the request for public records cannot be responded to within 7 days for one of the reasons provided in Section 3(d) of the FOIA, the Board shall have an additional 7 working days in which to respond. The Board shall give the requester notice of the extension of time to respond. Such notice of extension shall set forth the reasons why the extension is necessary.

h) Types of Board responses.

- 1) The Freedom of Information Officer shall respond to a request for public records in one of three ways:

- A) approve the request;
- B) approve in part and deny in part; or
- C) deny the request.

- 2) Upon approval of a request for public records, the Freedom of Information Officer may either provide the materials immediately, give notice that the materials shall be made available upon

PROPERTY TAX APPEAL BOARD

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payment of reproduction costs, or give notice of the time and place for inspection of records.

- 3) A denial of a request for public records shall be made in writing. It shall state the reasons for the denial in accordance with either Section 3(f) or Section 7 of the FOIA and the names and titles of individuals responsible for the decision. It shall also give notice of the requester's right to appeal to the Chairman of the Board.

- 4) Categorical requests creating an undue burden upon the Board shall be denied only after extending to the requester an opportunity to confer in an attempt to reduce the request to manageable proportions in accordance with Section 3(f) of the FOIA.

- 5) Failure to respond to a written request within 7 working days may be considered by the requester a denial of the request.

i) Appeal of a denial.

- 1) A requester whose request for public records has been denied by the Freedom of Information Officer may appeal the denial to the Chairman of the Board. The Notice of Appeal shall be in writing and shall be addressed to the Board's Springfield office, attention: Chairman (FOIA Appeal).

- 2) The Notice of Appeal shall include a copy of the original request, a copy of the denial received by the requester, and a written statement setting forth the reasons why the requester believes the appeal should be granted.

1) Chairman's response to denial.

The Chairman shall respond to an appeal within 7 working days after receiving a Notice of Appeal. The Chairman shall either affirm the denial or provide access to the requested public records. Failure to respond within 7 working days may be considered by the requester as an affirmation of the denial.

- a) Subject to the rights and protections of the Freedom of Information Act--45--569--40j--the official record in each appeal decided by the Board and not pending in the courts of this State shall be available for public inspection upon making a written request with the Board. The Property Tax Appeal Board shall publish annually a volume containing synopses of representative cases decided by the Board during that year. The publication shall be organized by--or cross-referenced by--the issue presented before the Board in each decision contained in the publication. Copies shall be available at a reasonable cost.
- c) Inspection of any files and documents shall be permitted only at the offices of the Board.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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The Property Tax Appeal Board shall publish annually a volume containing synopses of representative cases decided by the Board during that year. The publication shall be organized by or cross-referenced by the issue presented before the Board in each decision contained in the publication. Copies shall be made available to the public at no charge.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 1910.80 Forms

All forms issued pursuant to this Part will be available at the offices of the Property Tax Appeal Board and at the county boards of review and supervisor of assessments or county assessor's offices ~~County Boards of Review and Supervisor of Assessments--offices~~. Only the prescribed forms of the Property Tax Appeal Board may be used.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: 148.310
Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments provide a rate appeals process for hospitals concerning two new payment adjustment programs, Supplemental Critical Hospital Adjustment Payments (SCHAP) and Pediatric Outpatient Adjustment Payments, which were effective July 1, 1997, and July 2, 1997, respectively. These two programs were implemented through separate companion amendments that were published on July 18, 1997, and July 25, 1997, in the Illinois Register. The new payment adjustment programs direct Medicaid dollars to hospitals that provide critically necessary Medicaid services and ensure access for eligible children to highly specialized outpatient procedures. Therefore, providers of hospital services must have the availability of a rate appeals process to contest the calculation of payment levels or a determination of ineligibility for payment adjustment when it is believed that an error has occurred. The Department does not anticipate that these proposed amendments will result in any significant budgetary effect.

- 6) Will these proposed amendments replace emergency amendments currently in effect? Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
148.295	Amendment	July 18, 1997 (21 Ill. Reg. 9401)
148.296	New Section	July 18, 1997 (21 Ill. Reg. 9401)
148.297	New Section	July 25, 1997 (21 Ill. Reg. 9822)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Joanne Jones
Bureau of Rules and Regulations, Illinois
Department of Public Aid
201 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62763

The Department requests the submission of written comments within 30 days after the publication of this notice.

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these amendments at the Department of Public Aid's local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

DEPARTMENT OF PUBLIC AID

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The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: The Business Corporation Act
- 2) Code Citation: 14 Ill. Adm. Code 150
- 3) Section Numbers: Proposed Action:
150.220 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1.05 of the Business Corporation Act [805 ILCS 5/1.05].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking sets forth the information on obtaining the daily list and the fee charged.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 330 Howlett Building
Springfield, Illinois 62756
217/782-9524
- 12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not believe this proposed rulemaking will affect any types of small business.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Although this rulemaking has been in development for some time, it was inadvertently omitted from the Regulatory agendas.

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 150
BUSINESS CORPORATION ACT

SUBPART A: HEARING PROCEDURES

Section	
150.10	Applicability
150.20	Definitions
150.30	Right to Counsel
150.40	Appearance of Attorney
150.50	Special Appearance
150.60	Substitution of Parties or Attorneys
150.70	Commencement of Action; Notice of Hearing
150.80	Motions
150.90	Form of Papers
150.100	Conduct of Hearings
150.110	Orders
150.120	Record of Hearings
150.130	Invalidity

SUBPART B: SALE AND RELEASE OF INFORMATION

Section	
150.200	Annual List of Corporations
150.210	Monthly List of Corporations
150.220	Daily List of Corporations
150.230	Computer Access to Information
150.240	Abstracts of Corporate Record
150.250	Invalidity

SUBPART C: ERRORS, REFUNDS, CORRECTIONS, ADJUSTMENTS,
OBJECTIONS, AND OTHER RELIEF

Section	
150.300	Errors or Defects
150.305	Financial Data as Support Documentation
150.310	Invalidity

SUBPART D: NAMES

Section	
150.400	Preliminary Determination of Availability
150.405	Final Determination of Availability
150.410	Response as to Basis of Unavailability

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150.415 Reconsideration Procedure
 150.420 Effect of Final Determination
 150.425 Applicability
 150.430 Availability of Names: Statutory Requirements
 150.435 Standards - Conflicting Names
 150.440 Distinguishable - Defined
 150.445 Matters not Considered
 150.450 Significant Differences
 150.455 Surnames
 150.460 Alphabet Names
 150.465 Government Affiliation
 150.470 Restricted and Professional Words
 150.475 Acceptable Characters of Print
 150.480 Invalidity
 150.485 Improper Names

SUBPART E: SERVICE OF PROCESS ON THE SECRETARY OF STATE

Section
 150.500 Preamble
 150.510 Manner of Service
 150.520 Place of Service
 150.530 Payment of Fees
 150.540 Invalidity

SUBPART F: FEES, FRANCHISE TAX AND LICENSE FEES: ANNUAL REPORT

Section
 150.600 Payment of Fees, Franchise Tax and License Fee
 150.610 Definitions
 150.620 Annual Report
 150.621 Confidentiality of Annual Report Financial Data
 150.630 Shares Having a Par Value
 150.640 Invalidity

SUBPART G: INTERPRETIVE COMMENTS AND GENERAL PROVISIONS

Section
 150.700 Interpretive Comments Applicable Generally
 150.705 Paid-in Capital
 150.710 Advice to the Public
 150.720 Incorporating Licensed Professionals

AUTHORITY: Implementing and authorized by the Business Corporation Act of 1983 [805 ILCS 5].

SOURCE: Adopted at 9 Ill. Reg. 1433, effective February 1, 1985; amended at 10 Ill. Reg. 5146, effective March 21, 1986; amended at 11 Ill. Reg. 10302,

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effective June 1, 1987; amended at 17 Ill. Reg. 11571, effective July 15, 1993; amended at 18 Ill. Reg. 7783, effective May 15, 1994; amended at 20 Ill. Reg. 7026, effective May 8, 1996; amended at 21 Ill. Reg. _____, effective _____.

SUBPART B: SALE AND RELEASE OF INFORMATION

Section 150.220 Daily List of Corporations

- a) The daily list of newly formed corporations, business and not-for-profit, shall be published by the Department of Business Services.
- b) All requests to subscribe to the daily list for-the-term-of-one-year from-the-date-of-request shall be sent to the Director of the Department of Business Services, Room 328, Howlett Building, Springfield, Illinois 62756.
- c) The charge for the subscription to the daily list of corporations shall be \$318-00 for a 12 month subscription or \$26.50 per month for the balance of the subscription term based on a calendar year, payable by certified check or money order by all subscribers, except local governments or state departments and agencies.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Limited Liability Companies Act

2) Code Citation: 14 Ill. Adm. Code 178

3) Section Numbers: Proposed Action:
178.40 Amendment
178.50 Amendment

4) Statutory Authority: Implementing and authorized by Section 50-20 of the Limited Liability Companies Act [805 ILCS 180/50-20].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking sets forth the type of information available for purchase and the requirements to obtain it and informs the user of the available methods of transfer of information updates and the current cost. This rulemaking sets forth the procedure and the cost for service of process.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 330 Howlett Building
Springfield, Illinois 62756
217/782-9524

12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not believe this proposed rulemaking will affect any types of small business.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Although this rulemaking has been in development for some time, it was inadvertently omitted from the Regulatory Agendas.

The full text of the Proposed Amendments begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE

SUBTITLE A: REGULATION OF BUSINESS

CHAPTER I: SECRETARY OF STATE

PART 178

LIMITED LIABILITY COMPANY ACT

SUBPART A: RIGHTS AND REQUIREMENTS

Section	Definitions
178.10	Applicability
178.15	Filing Requirements
178.20	Additional Requirements for Forms
178.25	Filing Location
178.30	Business Hours
178.35	Sales of Information
178.40	Right to Counsel
178.45	Service of Process
178.50	Payment of Fees
178.55	Refunds
178.60	

SUBPART B: NAMES

Section	Availability of Names: Statutory Requirements
178.100	Preliminary Determination of Availability
178.105	Final Determination of Availability
178.110	Response as to Basis of Unavailability
178.115	Reconsideration Procedure
178.120	Effect of Final Determination
178.125	Standards - Conflicting Names
178.130	Distinguishable - Defined
178.135	Matters Not Considered
178.140	Significant Differences
178.145	Surnames
178.150	Alphabet Names
178.155	Government Affiliation
178.160	Restricted and Professional Words
178.165	Acceptable Characters of Print
178.170	Invalidity
178.175	Assumed Names
178.180	Foreign LLC with Prohibited Names
178.185	

AUTHORITY: Implementing and authorized by the Limited Liability Company Act [805 ILCS 180].

SOURCE: Adopted at 17 Ill. Reg. 22055, effective January 1, 1994; amended at

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NOTICE OF PROPOSED AMENDMENT

20 Ill. Reg. 7050, effective May 8, 1996; amended at 21 Ill. Reg. _____, effective _____.

SUBPART A: RIGHTS AND REQUIREMENTS

Section 178.40 Sales of Information

- a) Information concerning any limited liability company shall be available to the public from the Department of Business Services upon written request, or by telephone or in person with advance payment, using check or approved credit card, at the office of the Department as stated in Section 178.30.
- b) Information concerning the limited liability companies on file with the Department shall be in the form of an abstract of record, printed from the computer file of the Department, and shall consist of the limited liability company name, its date of formation, any assumed name, its registered agent, the address of the office at which the records are maintained, the latest date at which the limited liability company will dissolve, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, the members and/or managers names and addresses and the file number with the Department. The fee for each abstract or record shall be \$25.00.

- c) Computer connections by non-department users
 - 1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency commits to pay all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.

- 2) Computer terminal connection may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, which is based upon the volume of requests received, the computer terminal connections as opposed to other methods, and other factors which may impede the operations of the Office of the Secretary of State. This service will be suspended at anytime, should the connection interfere with the Secretary's internal work schedule and processing.

- 3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the most economic way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and other appropriate factors, such as statutory fees for certain

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NOTICE OF PROPOSED AMENDMENT

- 4) types of information and the requirements of this Subpart. No user may reproduce any list or abstract from the computer connection. Lists of LLC information including the names and information concerning all limited liability companies may only be purchased pursuant to the provisions of this part. Computer connections are to be used only to look up information. No changes on the Department's LLC files may be made by any computer connection user.

- d) Terms and conditions for computer maintained LLC information
 - 1) The information supplied by the Department to other agencies, commercial users, or other persons, shall be in the abstract format only, as specified in subsection (b) of this Section.

- 2) The fee for the entire file list of current and dissolved limited liability companies, and assumed names, shall be \$1,500.00. The monthly weekly update list shall cost \$400 \$900.00 per update. The update is available through modem access only. If the file list is purchased on computer tape, the purchaser shall supply the Department with a computer tape or tapes, compatible with the Secretary's computer equipment, on to which tapes the information shall be transferred.

- 3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check, money order made payable to the "Secretary of State" or credit card.

- 4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.

- 5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only to the extent that its subscribers request on an individual entity by entity basis.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 178.50 Service of Process.

- a) For the purposes of Section 1-50 of the LLC Act, the procedures set forth in this Section shall apply.
- b) Any process, notice or demand to be served under this Part shall be

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NOTICE OF PROPOSED AMENDMENT

made upon the Secretary, the Director, or any employee of the Department designated by the Director to accept such service for him or her, in the following manner:

- 1) Service shall comply with the provisions of Part 2 of the Civil Practice Law [4735 ILCS 5/2]7, the Federal Rules of Civil Procedure (2B USCA), or any administrative rules of service, as may be appropriate.
- 2) The affidavit of compliance required by Section 1-50 and 45-55 of the ILCA to be appended to the process, notice or demand to be served, containing the information described in subsection (b) of this Section ~~herein~~, shall be signed by the person instituting the action, suit or proceeding or by an attorney of record, and the signature of the affiant, without more, shall constitute the affirmation or acknowledgement, under penalties of perjury, that the affidavit is the act or deed of the affiant and that facts stated therein are true.
- c) At the time of any service under this Part, there shall be paid a fee of \$100, \$50-00, payable by check or money order to the "Illinois Secretary of State" or credit card. Each process, notice or demand shall be submitted with a separate payment.
- d) The Department of Business Services shall maintain original file copies which shall be in paper form or an acceptable archival medium, and originals may be discarded upon verification of archival medium (microfilm or electronic imaging) and upon approval by the State Records Commission (see 5 ILCS 160/16).

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Revised Uniform Limited Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 170
- 3) Section Numbers: Proposed Action:
170.17 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1103 of the Revised Uniform Limited Partnership Act [805 ILCS 210/1103]
- 5) A Complete Description of the Subjects and Issues Involved: This rule informs the user of the available methods of transfer of information updates and the current cost.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 330 Howlett Building
Springfield, Illinois 62756
217/782-9524

- 12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not believe this proposed rulemaking will affect any types of small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Although this rulemaking has been in development for some time, it was inadvertently omitted from the Regulatory Agendas.

The full text of the Proposed Amendment begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
 SUBTITLE A: REGULATION OF BUSINESS
 CHAPTER I: SECRETARY OF STATE

PART 170
 REVISED UNIFORM LIMITED PARTNERSHIP ACT

Section

- 170.10 Definitions
- 170.11 Filing Locations
- 170.12 Business Hours
- 170.13 Fees
- 170.14 Service of Process
- 170.15 Additional Requirements for Forms
- 170.16 Assumed Names
- 170.17 Sale of Information
- 170.20 Filing Requirements
- 170.30 Refunds
- 170.40 Interrogatories

AUTHORITY: Implementing and authorized by the Revised Uniform Limited Partnership Act [805 ILCS 210].

SOURCE: Adopted at 11 Ill. Reg. 10314, effective July 1, 1987; amended at 14 Ill. Reg. 1480, effective January 15, 1990; amended at 16 Ill. Reg. 11196, effective July 1, 1992; amended at 17 Ill. Reg. 427, effective January 1, 1993; amended at 20 Ill. Reg. 7056, effective May 8, 1996; amended at 21 Ill. Reg. _____, effective _____.

Section 170.17 Sale of Information

- a) The Department of Business Services shall not reproduce, or sell any list of limited partnerships on file until July 1, 1991.
- b) Information concerning any limited partnership or limited partnerships shall be available to the public from the Department of Business Services upon written request, or by telephone request with advance payment using an approved credit card when submitted by mail or in person at the offices of the Department as stated in Section 170.11.
- c) Information concerning the limited partnerships on file with the Department shall be in the form of an abstract or record, printed from the computer file of the Department, and shall consist of the limited partnership name, its date of formation, any assumed name, its registered agent, the address of the office at which the records are maintained, the latest date at which the limited partnership will dissolve, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number with the Department. The fee for each abstract of record shall be \$10.00.
- d) Copies of all documents pertaining to limited partnerships on file

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

with the Department are available upon written request submitted either by mail, in person or by telephone request with advance payment using an approved credit card to the Springfield office of the Department. The fee for such copies, and certification of any documents, is at least \$10.00, as stated in 805 ILCS 210/1102.

e) Computer connections by non-department users

- 1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency incurs all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.
- 2) Computer terminal connection may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, which is based upon the volume of requests received, the cost-effectiveness of providing the information through computer terminal connections as opposed to other methods, and other factors which may impede the operations of the Office of the Secretary of State. This service will be suspended at any time, should the connection interfere with the Secretary's internal work schedules and processing.
- 3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the economically simplest way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and any other appropriate factors, such as statutory fees (see 805 ILCS 210/1102) for certain types of information and the requirements of this Part Subpart.
- 4) No users may print any list or abstract from the computer connection. Lists of RULPA information including the names and information concerning all limited partnerships may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the Department's RULPA files may be made by any computer connection user.
- f) Terms and conditions for computer maintained RULPA information
 - 1) The information supplied by the Department to other agencies, commercial users, or other person, shall be in the abstract format only, as specified in subsection (c) of this Section.
 - 2) The fee for the entire file list of current and dissolved limited partnerships, and assumed names, shall be \$1,500.00. The monthly weekly update list shall cost \$400.00 per update week. The monthly update list is available by electronic transfer only on

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

~~microfiche~~~~-or-on-computer-tape~~. If the file list is purchased on computer tape, the purchaser shall supply the Department with a computer tape or tapes compatible with the Secretary's computer equipment, on to which tapes the information shall be transferred.

- 3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check, money order, or an approved credit card made payable to the "Secretary of State".
- 4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.
- 5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only on the basis of each limited partnership as needed by the subscriber.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Uniform Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 165
- 3) Section Numbers: 165.75
Proposed Action: New
- 4) Statutory Authority: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205]
- 5) A Complete Description of the Subjects and Issues Involved: This rule sets forth the type of information available for purchase and the requirements to obtain it. Informs the user of the available methods of transfer of information updates and the current cost.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Dale Reynolds
Department of Business Services
Room 330 Howlett Building
Springfield, Illinois 62756
217/782-9524
- 12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary of State does not believe this proposed rulemaking will affect any type of small business.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Although this rulemaking has been in development for some time, it was inadvertently omitted from the Regulatory Agendas.

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
 SUBTITLE A: REGULATION OF BUSINESS
 CHAPTER I: SECRETARY OF STATE

PART 165
 UNIFORM PARTNERSHIP ACT

Section	Definitions
165.10	Applicability
165.20	Filing Locations
165.30	Business Hours
165.40	Fees
165.50	Forms Requirements
165.60	Service of Process
165.70	Sale of Information
165.75	Right to Counsel
165.80	Interrogatories
165.90	

AUTHORITY: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205].

SOURCE: Adopted at 19 Ill. Reg. 1915, effective February 15, 1995; amended at 21 Ill. Reg. _____, effective _____.

Section 165.75 Sale of Information

- a) Information concerning any registered limited liability partnership (RLLP) shall be available to the public from the Department of Business Services upon written request, or by telephone or in person with advance payment, using check or approved credit card, at the office of the Department as stated in Section 165.30.
- b) Information concerning the registered limited liability partnerships on file with the Department shall be in the form of an abstract of record, printed from the computer file of the Department, and shall consist of the registered limited liability partnership name, its date of registration, its registered agent, the address of the office at which the records are maintained, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number with the Department. The fee for each abstract of record shall be \$25.
- c) Computer connections by non-department users
- 1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency commits to pay all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.

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NOTICE OF PROPOSED AMENDMENT

- 2) Computer terminal connection may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, which is based upon the volume of requests received, the computer terminal connections as opposed to other methods, and other factors which may impede the operations of the Office of the Secretary of State. This service will be suspended at anytime should the connection interfere with the Secretary's internal work schedule and processing.
- 3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the most economic way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and other appropriate factors, such as statutory fees for certain types of information and the requirements of this Part.
- 4) No user may reproduce any list or abstract from the computer connection. Lists of RLLP information, including the names and information concerning all registered limited liability partnerships, may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the Department's RLLP files may be made by any computer connection user.
- d) Terms and conditions for computer maintained RLLP information
- 1) The information supplied by the Department to other agencies, commercial users, or other persons shall be in the abstract format only, as specified in subsection (b) of this Section.
- 2) The fee for the entire file of current and expired registered limited liability partnerships shall be \$1500. The monthly update shall cost \$400 per update. The update is available through modem access only. If the file is purchased on computer tape, the purchaser shall supply the Department with a computer tape or tapes compatible with the Secretary's computer equipment, on to which tapes the information shall be transferred.
- 3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check, money order made payable to the "Secretary of State" or credit card.
- 4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.

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NOTICE OF PROPOSED AMENDMENT

- 5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only to the extent that its subscribers request on an individual entity by entity basis.

(Source: Added at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Auto Liability
- 2) Code Citation: 80 Ill. Adm. Code 3100
- 3) Section Numbers: Adopted Action:
3100.200 Amend
3100.300 Amend
3100.400 Repeal
3100.500 Amend
3100.600 Amend
3100.800 Amend
3100.900 Amend
3100.1000 Amend
3100.1100 Amend
3100.1200 Amend

- 4) Statutory Authority: Implementing and authorized by Section 64.1 of the Civil Administrative Code of Illinois [20 ILCS 405/64.1].

- 5) Effective Date of Amendments: July 15, 1997

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these Amendments contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: July 15, 1997

- 9) Notice of Proposal Published in Illinois Register: October 18, 1996, 20 Ill. Reg. 13473

- 10) Has JCAR issued a Statement of Objections to the Amendments? No

- 11) Differences between proposal and final version:

Section 3100.500 - replaced "Employees who satisfactorily complete a remedial driver's training course approved by DCMS will remain in warning status until the expiration of one year from receipt of the warning status letter." with the following sentence: "Employees placed on such status will be encouraged to complete a remedial driver's training course approved by DCMS."

Several minor editing changes were made.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these amendments replace an emergency amendment currently in effect?
No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Department is amending this Part to provide for changes per internal audit recommendations and to streamline the administrative procedure.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669
TDD (217)785-3979

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE I: GENERAL TRAVEL CONTROL
CHAPTER V: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
PART 3100
AUTO LIABILITY

Section	Summary and Purpose
3100.100	Review of Accidents
3100.200	Standards to be Used by Claims Adjustors <u>Review Committees</u>
3100.300	Monitoring Reports (Repealed)
3100.400	Notice of Multiple At-Fault Accidents - <u>Warning Status</u>
3100.500	Probation
3100.600	Revocation of Coverage
3100.700	Gross Negligence
3100.800	Willful and Wanton Misconduct
3100.900	Unacceptable Risk
3100.1000	Review Prior to Revocation of Coverage
3100.1100	Appeal
3100.1200	

AUTHORITY: Implementing and authorized by Section 64.1 of the Civil Administrative Code of Illinois [20 ILCS 405/64.1].

SOURCE: Adopted at 12 Ill. Reg. 9487, effective May 24, 1988; amended at 21 Ill. Reg. 10038, effective 10038.

Section 3100.200 Review of Accidents

- a) Claims adjustors in the Department of Central Management Services (DCMS), Division of Risk Management (DRM) Auto Liability Unit All State--Offices--Boards--and--Commissions shall investigate establish an accident review committee--within the agency--for the purpose of--investigating all motor vehicle accidents involving State employees of that agency who were driving State vehicles or who were engaged in State business at the time the accident occurred. The Department of Central Management--Services--shall--assist--the agency--in--developing--accident--review--committees--at--the agency's request--DCMS--shall--make--sample--procedures--available--for--review committees--to--follow
- b) After reviewing all relevant evidence, the claims adjustor accident review committee shall determine whether the employee involved in the accident was "at fault." This determination will be apart from the determination of liability.
- c) If the accident review committee determines that the employee was--"at fault"--the agency shall report this determination to DCMS, Division of Risk Management--(BRM)--on forms provided by BRM for this purpose.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 21 Ill. Reg. 10039, effective 10/1/99)

Section 3100.300 Standards to be Used by Claims Adjustors Review-Committees

- a) For the purposes of this Part, an employee shall be "at fault" when:
- 1) the accident is caused by the failure of the employee to operate the motor vehicle with the degree of care that would normally be exercised by an ordinary reasonable person; and
 - 2) the failure of the employee to exercise due care is more than 50% responsible for the resulting accident.
- b) In determining an employee to be at fault, the claims adjustor review committee shall consider:
- 1) any mitigating factors present such as an employee's being required to drive under adverse weather conditions, on congested roadways, or being required to drive a greater than average amount of miles per year based on figures maintained for the DCMS State garage fleet;
 - 2) special requirements of the employee's assignment or standing departmental orders or policies, including the needs of law enforcement, public safety and emergency personnel;
 - 3) The determination of "at fault" made by the claims adjustor committee is a determination of insurability and shall not under any circumstances be interpreted as an admission of liability. All committee findings shall be treated as confidential information. Such records shall not be available for non-official inspection and use or subject to release under a Freedom of Information Act [5 ILCS 140] (Rev. Stat. 1987, ch. 116, pars. 201-204) request without the prior permission of the affected employee.

(Source: Amended at 21 Ill. Reg. 10039, effective 10/1/99)

Section 3100.400 Monitoring Reports (Repealed)

~~DCMS shall monitor reports of at-fault accidents received from State agencies.~~

(Source: Repealed at 21 Ill. Reg. 10039, effective 10/1/99)

Section 3100.500 Notice of Multiple At-Fault Accidents - Warning Status

- a) If an employee is involved in two at-fault accidents within two years in which damages exceed \$500 per occurrence, result in payments--being made under the plan; that employee will be sent a letter via certified mail from DRM placing them in warning status. Employees placed on such status will be encouraged to complete a remedial driver's training course approved by DCMS. For purposes of damage calculation, property

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

damages to third parties or to the State vehicle or other State property will be based on the lesser of two repair estimates or on the estimate by the State's damage appraisal vendor. Bodily injury damages will be calculated based on medical evidence. Where primary coverage is provided by the State employee's personal insurance carrier, damage will be as documented by the private carrier.

- b) The letter shall notify the employee that an additional at-fault accident within one year of receipt of letter will place the employee's coverage under the Plan on probation.

(Source: Amended at 21 Ill. Reg. 10039, effective 10/1/99)

Section 3100.600 Probation

- a) Should a State employee be involved in an additional at-fault accident in which damages exceed \$500 for which payment is made under the Plan within one year after of receiving the notice specified in Section 3100.500, that employee's coverage under the Plan shall be placed on probation for one year.
- b) An employee whose coverage is placed on probation shall be notified by DRM via certified mail that if he/she is involved in an additional at-fault accident for which damages exceed \$500 as defined in 80 Ill. Adm. 3100.500 payment is made under the Plan within one year after of the date of the notice, the employee shall be deemed an unacceptable risk and coverage under the plan may be revoked.
- c) Upon receiving written evidence from the provider of the course that an employee whose coverage is placed on probation has satisfactorily completed a remedial driver's training course approved by DCMS, that employee shall be removed from probation. If one year has not expired since receipt of the warning status letter, the individual will be returned to warning status until the expiration of one year from the receipt of the warning status letter probationary status. DCMS will reimburse employees successfully completing an approved course of remedial training. The criteria for approval of a remedial training course shall include:

- 1) a curriculum based on teaching recognized defensive driving techniques and accident prevention;
- 2) course length sufficient to teach these skills, not in excess of 2 weeks or shorter than 8 hours 2-days; and
- 3) a reasonable fee for instruction, not in excess of \$100.

(Source: Amended at 21 Ill. Reg. 10039, effective 10/1/99)

Section 3100.800 Gross Negligence

For the purposes of this Part, an employee shall be deemed to be grossly

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

negligent when the employee operated operates the motor vehicle involved in a manner which demonstrates evidences that the employee has failed to exercise even a slight degree of ordinary due care to prevent injury to the person or property of another.

(Source: Amended at 21 Ill. Reg. 10035, effective 11-1-88)

Section 3100.900 Willful and Wanton Misconduct

For the purposes of this Part, an employee shall be deemed to have engaged in willful and wanton misconduct when the employee operated operates the motor vehicle involved in a manner which demonstrates evidences an unjustified intentional disregard for the safety of other persons or property.

(Source: Amended at 21 Ill. Reg. 10035, effective 11-1-88)

Section 3100.1000 Unacceptable Risk

For the purposes of this Part, an employee is deemed an unacceptable risk when:

- An employee has an at-fault accident within the probationary period and damages exceed \$500 as defined in 80 Ill. Adm. Code 3100.500; or payment has been made under the Plan
- An at-fault accident results in property damage liability reserved by the DRW claims adjuster and verified by the claims supervisor in the amount of \$1 million or more; or
- An at-fault accident results in bodily injuries and damages are reserved by the DRW claims adjuster and verified by the claims supervisor incurred in the amount of \$1 million or more; or
- An at-fault accident results in the wrongful death of a person; or
- An at-fault accident results in bodily injury or property damage to a third party and the employee is subsequently convicted as driving under the influence as defined in Article V of the Illinois Rules of the Road [625 ILCS 5/Art. V] §§§§-Rev-Stat-1987-CH-95-1/27 pars--11-580--et--seq-7. For purposes of this Subpart, court supervision or revocation of license for failure to submit to a breath test shall not constitute conviction.

(Source: Amended at 21 Ill. Reg. 10036, effective 11-1-88)

Section 3100.1100 Review Prior to Revocation of Coverage

- Prior to revoking the coverage of any employee under the Plan, the Director of DCMS shall convene a special committee to review all accidents leading to the revocation.
- This committee shall be composed of three two employees of DCMS and

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

one representative of the employing agency chosen by the Director of that agency. If the employee whose coverage is to be revoked is represented by a collective bargaining unit, then a representative of that collective bargaining unit chosen by the unit shall also be appointed to the committee.

- The committee shall hear all relevant evidence including evidence or statements presented by the affected employee. The purpose of the committee's review is to verify that the record supports that the requirements of 80 Ill. Adm. Code 3100.1000 were present and support the revocation of coverage.

- The committee shall also consider any mitigating factors, including but not limited to length of service, prior driving record, the employee's position and the type of driving engaged in. The purpose of this review is to determine the mitigating factors such as are defined in 80 Ill. Adm. Code 3100.300 are sufficient to support the continuation of probationary status or dictate that revocation be for a limited time.

- The committee shall recommend to the Director that the employee's coverage either be revoked or that the employee remain on probationary status.

- If the committee recommends that coverage be revoked, it shall also recommend the length of the revocation period. Coverage may be revoked for between one and five years. The basis for this recommendation shall be the standards incorporated in subsections (c) and (d) of this Section.

- The Director of DCMS will then determine whether coverage should be revoked and the length of the revocation. The basis of this decision shall be based on the standards incorporated in subsections (c), (d) and (f) of this Section.

- The employee shall be notified of the Director's decision by letter sent by certified mail. Revocation shall be effective ten days from the date of mailing.

(Source: Amended at 21 Ill. Reg. 10037, effective 11-1-88)

Section 3100.1200 Appeal

- The employee shall have a right to appeal the Director's decision.
- Such appeal shall be filed with DCMS within 30 days of the effective date of the revocation. The revocation shall remain in full force and effect during the appeal.
- Any appeal shall be conducted as an administrative hearing pursuant to the requirements of Article 10 Sections--18-through-15 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. §§§§-Rev-Stat-1987-CH-127-pars--1010-through-1015-
- The decision of the hearing officer shall be final and binding and shall constitute the employee's final administrative relief.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 21 Ill. Reg. 1003, effective)

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

- 1) Heading of Part: The Campaign Financing Act
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3) Section Number: Adopted Action:
 100.40 Amended
 100.70 Amended
 100.120 New
- 4) Statutory Authority: Implements Article 9 of the Illinois Election Code and authorized by Section 9-15(3) of the Illinois Election Code (10 ILCS 5/9-1 et seq. And 9-15(3)).
- 5) Effective Date of Amendments: July 21, 1997
- 6) Do these adopted amendments contain an automatic repeal date? No
- 7) Do these adopted amendments contain incorporations by reference? No
- 8) Date filed in agency's principal office? July 13, 1997
- 9) Date the Notice of proposed rules was published in the Illinois Register: March 14, 1997, 20 Illinois Register 3017
- 10) Has JCAR issued a statement of objection to these amendments? No
- 11) Differences between proposal and final versions: Technical and editorial changes suggested by the Joint Committee on Administrative Rules have been incorporated.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this part? No
- 15) Summary and purpose of these amendments:
 (A) 100.40 -- Proposed subsection (h) attempts to encourage committees to preserve records required by law to be kept by placing an effective sanction against committees which do not in fact preserve the records. The rule is intended to take away the impediment to effective disclosure by the fact that records no longer exist to make an audit possible. This rule does not impose any liability on accountants, bookkeepers, banks or other financial institutions to provide services in the reconstruction of records free of charge.

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

(B) 100.70 -- Proposed subsection (d) attempts to close a loophole in the present rules by which it may be possible for a political committee to file, in lieu of a Pre-Election Report, a Non-Participation Statement valid at the time it is filed -- that is, no political contributions had been made to the date of filing -- but subsequently make a campaign contribution for the upcoming election which would otherwise escape reporting until the next Semi-Annual Report. Significant sums of unreported money can be transferred from one committee to another within the 30 days immediately preceding an election by the practice, which the proposed rule attempts to limit.

(C) 100.120 -- Proposed new section 100.120 attempts to make more accurate reporting of in-kind contributions (goods and services rather than cash) by requiring those persons who make such contributions to report to the recipient committee the fact that such a contribution has been made, or by requiring the committee to acknowledge the fact that an in-kind contribution has been made when facts come to the committee's attention that one has been made. Typically such contributions consist of services, such as printing or mailing of campaign materials, purchased and paid for by one entity on behalf of another committee.

16) Information and questions regarding these adopted amendments shall be directed to:

A. L. Zimmer, General Counsel
State Board of Elections
James R. Thompson Center
100 W. Randolph Street, Suite 14-100
Chicago, IL 60601

The full text of the adopted rule begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 100
THE CAMPAIGN FINANCING ACT

Section
100.10 Definitions
100.20 Official Forms
100.30 Forwarding of Documents (Repealed)
100.40 Vacancies in Office - Custody of Records
100.50 Multiple Filings by State and Local Committees
100.60 Filing Option for a Federal Political Committee
100.70 Reports of Contributions and Expenditures
100.80 Report Forms
100.90 Provision Circumvention
100.100 Proof of Identification; Application for Inspection and Copying
100.110 Loans by One Political Committee to Another
100.120 Receipt of Campaign Contributions

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 1004, effective 11/21/2003.

Section 100.40 Vacancies in Office - Custody of Records

Reference: This Section interprets or applies Section 9-2, 9-5, 9-7, 9-10 and 9-15 of the Election Code.

a) Death

Upon the death of the treasurer of a committee, the candidate or, if such candidate is unable or unwilling to act, the remaining officers of the committee shall appoint a new treasurer and so amend the Statement of Organization (Form D-1) within 10 days of the date of death of the treasurer. In the event there is no candidate or remaining officers of the committee, the person or persons who succeed to the interests of the committee in its funds shall be responsible for filing all appropriate reports until such time as new officers are chosen or the committee terminates.

b) Removal from Office

In the case of a single candidate related committee whose officers were originally named by the candidate, the candidate shall have the right to remove any and all officers of his committee, provided such

STATE BOARD OF ELECTIONS

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removal be done in writing and that the candidate comply with all requirements of the Act in the absence of officers for his candidate related committee. If a candidate removes from office any or all officers of his committee, all records related to the committee shall be maintained by the candidate. If former officers request, he shall allow them access to records and provide reasonable opportunity to make copies.

c) Resignation

If the treasurer and all other officers resign and no new officers are appointed, the former treasurer and officers or, in the case of candidate related committees, the candidate shall be responsible for terminating the committee. When an individual vacates the position of treasurer, he shall verify the accuracy of his or her records to the succeeding treasurer. The succeeding treasurer shall not be held responsible for the veracity or accuracy of the records of the predecessors.

d) Inability to Sign

All reports shall be verified, dated and signed by either the treasurer of the political committee making the statement or the candidate on whose behalf the statement is made. However, should it be impossible for the political committee to obtain the signature of the treasurer or candidate prior to the filing deadline, then another may sign for the treasurer, provided that the treasurer submits a letter within 30 days of the filing indicating that such substituted signature is authorized and the treasurer accepts responsibility as if he had signed. The substituted signature shall read, "treasurer's name, by name of person signing". If the treasurer failed to submit a letter within 30 days, then the report filed shall be considered a nonfiling.

e) All reports, original reports, and other campaign documents required to be kept by a political committee under Article 9 of the Election Code remain the property of the political committee. No chairman, treasurer, or candidate shall have any proprietary or possessory interest in such documents in derogation of the rights of the committee itself.

f) If any political committee changes any officers, all records, statements and reports in the possession of the outgoing officers shall be transferred within ten + 10+ days following such change to the person or persons newly responsible for the maintenance of those records and/or the filing of reports.

g) If any outgoing officer fails to turn over the records in his or her care to a successor, in accord with this Section, or if any officer attempts to withhold records from other officers of the committee, the committee chairman, the treasurer, or the candidate may file a complaint before the Board requesting a turnover order.

h) A committee which fails to preserve its records and accounts required by Section 9-7 of the Election Code, or by this Part, for the periods required by statute or rule may be required to reconstruct its records

STATE BOARD OF ELECTIONS

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and accounts if doing so is necessary to the audit of its records. If a committee is required to reconstruct its records it must pay all of the costs and charges, including bank or accountants fees, for the reconstruction of the records.

(Source: Amended at 21 Ill. Reg. 1004, effective 10/21/89)

Section 100.70 Reports of Contributions and Expenditures

a) Reference: This Section interprets or applies Section 9-10 of the Election Code.

b) For purposes of determining the amount of contributions of \$500 or more under Section 9-10 of the Act, all contributions received between the last date of the period covered by the last report filed prior to the election and the election from a single person, as defined in Section 9-1.6, shall be aggregated and treated as one.

c) An expenditure to a payee who is in whole or in part only a conduit for payment to another, such as a political consultant or a credit card issuer, must include by way of detail or separate entry the amount of funds passing to each vendor, business entity or person to receive funds from the payment, together with the reason for each such disbursement and the beneficiary of the disbursement. Nothing in this Section shall be construed to impose a reporting obligation on any person not otherwise required to report under Article 9 of the Election Code, or to require the itemization of expenditures not otherwise required to be itemized under Article 9 of the Election Code.

d) A committee which, having filed a Statement of Non-Participation, makes a subsequent contribution to a candidate who will appear on the ballot at the next election shall file a Pre-Election Report within five days after making the contribution, or if the contribution is made during the five days immediately prior to the election, within 24 hours after making the contribution.

(Source: Amended at 21 Ill. Reg. 1004, effective 10/21/89)

Section 100.120 Receipt of Campaign Contributions

a) Every person or political committee which makes any expenditure on behalf of a candidate or political committee in excess of \$20.00 shall notify the treasurer of the political committee within five business days after making the contribution. The notification shall include the name and address of the person or political committee making the expenditure, the name and address of the entity to whom the expenditure was made, the amount of ascertainable market value of the expenditure, if in kind, a description of the goods or services, and

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

- the date the expenditure was made.
- b) An entity defined by Section 9-1.6 of the Election Code or a political committee as defined by Sections 9-1.7, 9-1.8 or 9-1.9 of the Election Code shall acknowledge, to the donor, receipt of any such notice it receives conforming to the requirements of subsection (a) of this Section. If the donor of the expenditure does not comply with subsection (a) of this Section the beneficiary political committee shall nonetheless have the responsibility to report such in-kind contributions or expenditures from the donor if it actually knows or reasonably should have known from the facts available to it that an in-kind contribution had been made in its behalf.
- c) A contribution, irrespective of its character, to a political committee is deemed to have been received on the date the contribution was actually received by the Treasurer of the Committee. An in-kind expenditure for goods or services, possession of which is not actually obtained by the recipient committee, shall be deemed to be received on the date the notice required by subsection (a) of this Section is actually received by the Committee, or if no notice has been received, on the date information comes into the possession of the recipient committee from which the committee knows or should reasonably know of the in-kind contribution.

(Source: Added at 21 Ill. Reg. 10049, effective

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

- Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan
- Code Citation: 80 Ill. Adm. Code 2700
- Section Numbers: Adopted Action:
 2700.430 Amend
 2700.700 Amend
 2700.720 Amend
 2700.735 Amend
- 4) Statutory Authority: Implementing Section 457 of the Internal Revenue Code (26 U.S.C.A. 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and 5/24-101]
- 5) Effective Date of Amendments: July 15, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: July 15, 1997
- 9) Notice of Proposal Published in Illinois Register: February 28, 1997, 21 Ill Reg. 2773
- 10) Has JCAR issued a Statement of Objections to the Amendments? No
- 11) Differences between proposal and final version:
 Section 2700.430(a)(1) - changed new language to read as follows: "the maximum deferral amount as adjusted by the Internal Revenue Service pursuant to 26 U.S.C. 457(e)(15),"
- Section 2700.720(d) - showed "or Beneficiary" as stricken to reflect current language.
- Several minor editing changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments:

Section 2700.430 is being amended to comply with changes in the Internal Revenue Code effective with taxable years beginning after December 31, 1996, that will provide a cost-of-living adjustment to the maximum deferral amount of \$7,500.

Sections 2700.700 and 2700.735 are being amended to comply with changes in the Internal Revenue Code effective with taxable years beginning after December 31, 1996, that permit a participant's account, when \$3,500 or less, to be cashed-out while the participant is still employed.

Section 2700.720 is being amended to comply with changes in the Internal Revenue Code effective with taxable years beginning after December 31, 1996, that will permit a participant who has selected a delayed distribution date to make a one-time election to defer commencement of distributions.

16) Information and questions regarding this adopted amendment shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669
TDD (217)785-3979

The full text of the Adopted Amendments begins on the next page:

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE H: DEFERRED COMPENSATION

CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700

STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section
2700.100 Establishment of Plan
2700.110 Purpose of Plan

SUBPART B: DEFINITIONS

Section
2700.200 Definitions

SUBPART C: ADMINISTRATION

Section
2700.300 Responsibilities of the Department
2700.310 Responsibilities of the Board
2700.320 Deferred Compensation Hardship Committee
2700.330 Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section
2700.400 Eligibility
2700.410 Enrollment
2700.420 Minimum Deferral
2700.430 Maximum Deferral
2700.440 Catch-up
2700.450 Revocation of Deferral

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section
2700.500 Normal Retirement Age
2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section
2700.600 Deferred Compensation Accounts
2700.610 Allocation of Investment Earnings or Losses
2700.620 Investment Fund Valuation

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2700.630 Administrative Costs
 2700.640 Method of Making Investment Requests
 2700.650 Participant Statements
 2700.660 Unsecured General Creditor
 2700.670 Investment Funds

SUBPART G: DISTRIBUTIONS

Section
 2700.700 Distribution Events
 2700.710 Beneficiary Election of Method of Distribution
 2700.720 Election of Delayed Distribution Date
 2700.730 Election of Method of Distribution
 2700.735 Distribution of Small Accounts
 2700.740 Unforeseeable Emergency
 2700.750 Designation of Beneficiary
 2700.760 Leave of Absence

SUBPART H: MISCELLANEOUS

Section
 2700.800 Nonassignability
 2700.810 Payments to Minors and Incompetents
 2700.820 Missing Persons
 2700.830 Severability
 2700.840 Days and Dates

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section
 2700.900 Amendment of Plan
 2700.910 Termination of Plan
 2700.920 Merger with Prior Plans

APPENDIX A Administrative Rules (Repealed)

EXHIBIT A Administrative Rule I (Repealed)
 EXHIBIT B Administrative Rule II (Repealed)
 EXHIBIT C Administrative Rule III (Repealed)
 EXHIBIT D Administrative Rule IV (Repealed)
 EXHIBIT E Administrative Rule V (Repealed)
 EXHIBIT F Administrative Rule VI (Repealed)

AUTHORITY: Implementing Section 457 of the Internal Revenue Code (26 U.S.C.A. 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6,

ILLINOIS STATE BOARD OF INVESTMENT

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1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10038, effective 10/1/97.

SUBPART D: PARTICIPATION IN THE PLAN

Section 2700.430 Maximum Deferral

a) The total amount of Deferred Compensation during any Plan Year shall not exceed:

- 1) 33 1/3% of Includable Compensation (25% of taxable compensation), or the maximum deferral amount as adjusted by the Internal Revenue Service pursuant to 26 U.S.C. 457(e)(15), \$775007 whichever is less, or
- 2) the maximum amount allowable during the "Catch-up" period.

b) In no event, however, can the maximum amount deferred exceed:

- 1) \$15,000 for any taxable year during which Catch-up is utilized, and
 - 2) an amount in excess of the amount of an Employee's Compensation per Pay Period less deductions for FICA, any other taxes, pension contributions and other mandatory deductions.
- c) If an individual participates in two or more deferred compensation plans maintained by different employers, the maximum that may be deferred under all plans for a taxable year cannot exceed the maximum deferral amount as defined by the Internal Revenue Service, \$775007 or, as applicable, the maximum permitted under the Catch-up provision.
- d) If a Participant has deferred Compensation in excess of the maximum amount allowable, the Department shall withdraw and return to the Participant the excess amount deferred.

(Source: Amended at 21 Ill. Reg. 10050, effective 10/1/97.)

SUBPART G: DISTRIBUTIONS

Section 2700.700 Distribution Events

- a) Distributions under this Plan will be made in accordance with the regulations under Section 401(a)(9) of the Code (26 CFR 54, 52 FR 28070, July 27, 1987). The provisions reflecting Section 401(a)(9) override any distribution options in the Plan inconsistent with

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

Section 401(a)(9).

- b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events.

- 1) Termination of Service,
 - 2) Death, or
 - 3) Delayed Distribution Date.
- c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency by the Hardship Committee.
- d) A Participant, with \$3,500 or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735.

ed) No distributions will be made to a Participant who is employed as an independent contractor before a date which is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution will be started on the projected distribution date. If the contractor has attained age 70 1/2 at the time the contract is terminated, the 12 month waiting period is waived.

fe) Participants are responsible for notifying the Department of their Termination of Service.

gf) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.

hg) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70 1/2 or separates, if he or she works past age 70 1/2, will receive at least two taxable distributions in the same year.

(Source: Amended at 21 Ill. Reg. 10050, effective July 1, 1999.)

Section 2700.720 Election of Delayed Distribution Date

- a) Within 60 days after Termination of Service, a Participant may elect a Delayed Distribution Date. Participant's election becomes irrevocable after the 60 day election period expires.

b) The Delayed Distribution Date may be:

- 1) A specific future date,
 - 2) Normal Retirement Age.
- c) In no case may a Participant elect a Delayed Distribution Date beyond age 70 1/2.

d) A Participant ~~ex-Beneficiary~~ may elect to make a one-time change forward of the ~~a~~ Delayed Distribution Date provided that the election is made during the 30 day election period after the Delayed Distribution Date is reached ~~only-once~~ and such election shall be irrevocable.

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

- e) In the event a Participant who has terminated State service and elected a Delayed Distribution Date returns to State employment prior to reaching the Delayed Distribution Date, the Delayed Distribution Date is effectively voided. Whether or not the Participant resumes deferrals shall not affect the nullification.

f) Neither a Participant who works past age 70 1/2, nor a participant with an account value less than \$3,500, nor a Beneficiary may elect a Delayed Distribution Date.

(Source: Amended at 21 Ill. Reg. 10050, effective July 1, 1999.)

Section 2700.735 Distribution of Small Accounts

a) If a Deferred Compensation Account plus any uninvested deferrals on the date the Participant separates from State service (or dies) is equal to or less than \$3,500, the Account shall be distributed in a lump sum on the next Accounting Date or, in the event of the participant's separation, transferred to another 457 Plan in accordance with Section 2700.730(a)(5).

b) If a Participant's Deferred Compensation Account is \$3,500 or less, such Account may be distributed, in a lump sum on the next Accounting Date, to the Participant during employment provided the Participant has not contributed to the Account during the 2-year period ending on the date of the distribution. The cash-out provisions may be used only once by a Participant.

(Source: Amended at 21 Ill. Reg. 10050, effective July 1, 1999.)

NORTHEASTERN ILLINOIS PLANNING COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Fees for Reviewing Applications to Change the Boundaries of a Wastewater Facility Planning Area
- 2) Code Citation: 35 Ill. Adm. Code 399
- 3) Section Numbers: Proposed Action:
399.Appendix A Amended
- 4) Statutory Authority: Implementing Section 33.5(b) and authorized by the Northeastern Illinois Planning Act, as amended (70 ILCS 1705/33.5) (see P.A. 88-347).
- 5) Effective Date of Amendment: June 17, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this proposed rule contain incorporation by reference? No
- 8) Date filed in Agency's Principal Office: June 17, 1997
- 9) Notice of Proposal Published in Illinois Register: February 21, 1997, 20 Illinois Register 2558
- 10) Has JCAR issued a Statement of Objections to this (these) Rule(s)? No
- 11) Differences between proposal and final version: But for minor typographical revisions, no substantive revisions were made to the amendments to Part 399.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rule (amendments, repealer) replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule(s): The fee schedule has been designed to cover the cost of Commission review of facility planning area boundary amendments to the Illinois Water Quality Management Plan which include, but are not limited to, directly attributable, staff salaries, benefits, overhead expenses, public notifications, mailings, postage, reproductions, transcripts of proceedings and transportation costs. The rule does not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 16) Information and questions regarding this adopted rule shall be directed

NORTHEASTERN ILLINOIS PLANNING COMMISSION

NOTICE OF ADOPTED AMENDMENTS

to:

Ms. Deborah L. Washington
Director: Project Review/Work Program
Development Department
Northeastern Illinois Planning Commission
222 South Riverside Plaza, Suite 1800
Chicago, Illinois 60606
(312) 454-0400 fax (312)454-0411

The full text of this adopted amendment begins on the following page:

NORTHEASTERN ILLINOIS PLANNING COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE C: WATER POLLUTION

CHAPTER I: NORTHEASTERN ILLINOIS PLANNING COMMISSION

PART 399

FEES FOR REVIEWING APPLICATIONS TO CHANGE THE BOUNDARIES OF A
WASTEWATER FACILITY PLANNING AREA

SUBPART A: GENERAL

Section	Purpose
399.10	Definitions
399.20	Related Documents
399.30	Applicability
399.40	Relation to Other Fees
399.50	Severability

SUBPART B: PROCEDURES FOR DETERMINATION AND PAYMENT OF FEES

Section	Purpose
399.110	Applicants Not Subject to Fees
399.120	Fee Calculation
399.130	Manner of Payment
399.140	Refund Agreements

APPENDIX A Rates Charged Per Acre

AUTHORITY: Implementing and authorized by Section 33.5 of the Northeastern Illinois Planning Act [70 ILCS 1705/33.5].

SOURCE: Adopted at 18 Ill. Reg. 9470, effective June 9, 1994; amended at 21 Ill. Reg. 144.144, effective 144.144.

NORTHEASTERN ILLINOIS PLANNING COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 399. APPENDIX A Rates Charged Per Acre

Date Commission Receives Application	Column A (With Agency Funding pursuant to Section 399.120)	Column B (Without Agency Funding pursuant to Section 399.120)
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6/1/97-5/31/98	\$10.00	\$10.00
6/1/98-5/31/99	\$10.00	\$10.00
6/1/99-5/31/2000	\$10.00	\$10.00

6/1/94-5/31/95	\$5.06	\$8.25
6/1/95-5/31/96	\$5.99	\$8.69
6/1/96-5/31/97	\$5.61	\$9.16

(Source: Amended at 21 Ill. Reg. 144.144, effective 144.144.)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Pay Plan2) Code Citation: 80 Ill. Adm. Code 310

<u>Section Numbers:</u>	<u>Proposed Action:</u>
310.110	Amended
310.130	Amended
310.290	Amended
310.450	Amended
310.530	Amended
310.540	Amended
310.Appendix B	Amended
310.Appendix C	Amended
310.Appendix D	Amended
310.Appendix G	Amended

4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].5) The effective date of this rule: July 21, 19976) If this emergency rule is to expire the end of the 150 day period, please specify the date: The emergency amendment will extend to the full 150 days.7) Date filed in Agency's principle office: July 21, 19978) The reason for the emergency:

This emergency filing to the Pay Plan is necessary to suspend merit increases for Fiscal Year 1998 for those Merit Compensation employees whose retirement formula rates were changed. Merit Compensation employees shall receive a one-time lump sum payment of \$565.00, except those employees subject to the alternative retirement formula, those employees on emergency or temporary appointment, and those employees who work less than 75% of the regular work schedule who will have the \$565.00 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit.

The Merit Compensation employees whose retirement formula rates were not changed shall not have their merit increases suspended for Fiscal Year 1998. An Alternative Guidechart is being added to Section 310.540 for these employees.

Those employees subject to the Schedule of Salary Grades and whose retirement formula rates were changed shall receive a one-time lump sum payment of \$565.00, except those employees subject to the alternative retirement formula, those employees on emergency or temporary appointment,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

and those employees who work less than 75% of the regular work schedule who will have the \$565.00 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit. The Schedule of Salary Grades will reflect an alternative schedule with a 3% increase for those employees whose retirement formula rates were not changed as described in Section 310.110.

9) A Complete Description of the Subjects and Issues Involved: The Department of Central Management Services is filing an emergency amendment to implement the Fiscal Year 1998 Pay Plan changes that affect those employees subject to the Schedule of Salary Grades and Merit Compensation Plan. The following Sections are being amended:

In Sections 310.110, 310.130, 310.290, 310.530, 310.540, 310.Appendices B, C, D and G, the dates are being revised to reflect the new fiscal year. The salary ranges will not be amended for the Out-of-State or Foreign Service Rates, Medical Administrator Rates, Merit Compensation System Salary Schedule and Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 1998.

The Schedule of Salary Grades will reflect an alternative schedule with a 3% increase for those employees whose retirement formula rates were not changed in Section 310.110. Those employees whose retirement formula rates were changed shall receive a one-time lump sum payment of \$565.00, effective July 1, 1997. The salary ranges in Appendix B will not be amended for Fiscal Year 1998 for those employees receiving the one-time lump sum payment.

Section 310.450 revisions pertain to the merit increases being suspended for Merit Compensation employees, except those employees who are subject to the alternative retirement formula. The former merit increase guidechart is being deleted since it will not be used for Fiscal Year 1998.

In Sections 310.530 and 310.540, modifications to the Pay Plan reflect suspension of any merit increases for Merit Compensation employees whose retirement formula rates were changed. An inclusion is being added to Section 310.530 that the above employees shall receive a one-time lump sum payment of \$565.00, except those employees subject to the alternative retirement formula, those employees on emergency or temporary appointment, and those employees who work less than 75% of the regular work schedule will have the \$565.00 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit.

The Merit Compensation employees whose retirement formula rates were not changed will continue receiving their merit increases as outlined in Section 310.450 for Fiscal Year 1998. An alternative guidechart is being

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

added to Section 310.540 for those employees.

10) Are there any proposed amendments pending to this Part? No

11) Statement of Statewide Objectives: This rulemaking does not affect local government units.

12) he name, address and telephone number of the person to whom information and questions regarding this emergency rule shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, IL 62706
(217) 782-5601

The full text of the Emergency Amendments follows on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	Policy and Responsibilities
310.20	Jurisdiction
310.30	Pay Schedules
310.40	Definitions
310.50	Conversion of Base Salary to Pay Period Units
310.60	Conversion of Base Salary to Daily or Hourly Equivalents
310.70	Increases in Pay
310.80	Decreases in Pay
310.90	Other Pay Provisions
310.100	Implementation of Pay Plan Changes for Fiscal Year 1998 1997
310.110	
EMERGENCY	
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
EMERGENCY	
310.140	Reinstitution of Within Grade Salary Increases
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	Introduction
310.205	Prevailing Rate
310.210	Negotiated Rate
310.220	Part-Time Daily or Hourly Special Services Rate
310.230	Hourly Rate
310.240	Member, Patient and Inmate Rate
310.250	Trainee Rate
310.260	Legislated and Contracted Rate
310.270	Designated Rate
310.280	Out-of-State or Foreign Service Rate
310.290	
EMERGENCY	
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

SUBPART C: MERIT COMPENSATION SYSTEM

Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
EMERGENCY	
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
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310.540	Annual Merit Increase Guidechart for Fiscal Year <u>1998</u> <u>1997</u>

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310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE C	RC-069 (Firefighters, AFSCME)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q	RC-033 (Meat Inspectors, IFPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)

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TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)
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APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year <u>1998</u> <u>1997</u>
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APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year <u>1998</u>
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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended

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at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17655, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14

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Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17,

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1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 11111, effective July 21, 1997.

SUBPART A: NARRATIVE

Section 310.110 Implementation of Pay Plan Changes for Fiscal Year 1998 1997

EMERGENCY

- a) The rates of pay for all employees occupying positions subject to the Schedule of Salary Grades shall be as set out in Appendix B, Schedule of Salary Grades -- Monthly Rates of Pay for Fiscal Year 1998 1997.
- b) Employees whose retirement formula rates were changed and are subject to the Schedule of Salary Grades and Out-of-State or Foreign Service Rates shall receive a one-time lump sum payment of \$565, except those employees on emergency or temporary appointment, and those employees who work less than 75% of the regular work schedule who will have the \$565 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit. All employees whose retirement formula rates were not changed and are subject to the above shall receive a 3% increase, effective July 1, 1997. b) Any employee who received a salary payment for part of Fiscal Year 1996 that did not reflect the rates in Section 310.110 Appendix B for Fiscal Year 1997 shall receive a lump sum payment equal to the difference between what was initially paid and what is appropriate per

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that provision--
 c) the Step--rate for each salary range that was in effect as of July 1, 1994, will remain the same and be put into the Fiscal Year--1997 Schedule of Salary Grades as Step--ic.

(Source: Emergency amendment at 21 Ill. Reg. 11111, effective July 21, 1997, for a maximum of 150 days)

Section 310.130 Effective Date**EMERGENCY**

The effective date of this Pay Plan Narrative (Subpart A), Schedule of Rates (Subpart B), and Schedule of Salary Grades (Appendix B), shall be July 1, 1997.

(Source: Emergency amendment at 21 Ill. Reg. 11111, effective July 21, 1997, for a maximum of 150 days)

SUBPART B: SCHEDULE OF RATES

Section 310.290 Out-of-State or Foreign Service Rate**EMERGENCY**

The rate of pay for employees occupying positions which require payment in accordance with the economic conditions and social legislation of another state or foreign country. An adjustment may be made to the salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate. The Director of the Department of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

Title

Effective
 Fiscal Year 1998 1999

Foreign Service Economic Development Executive I

3256-5814

Foreign Service Economic Development Executive II

4170-7619

Foreign Service Economic Development Representative

2767-4984

Office Administrator IV
 (States Other Than California and New Jersey)

2175-3651

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(CA, NJ)	2458-4128
Office Assistant (Foreign Service)	1719-2320
Office Associate (States Other Than California and New Jersey) (CA, NJ)	1839-2521 2079-2850
Public Service Administrator (States Other Than California and New Jersey) (CA, NJ)	2916-6189 3297-6997
Office Coordinator (States Other Than California and New Jersey) (CA, NJ)	1909-2630 2158-2973
Revenue Auditor I (States Other Than California and New Jersey) (CA, NJ)	2601-3717 2941-4202
Revenue Auditor II (States Other Than California and New Jersey) (CA, NJ)	3033-4392 3428-4965
Revenue Auditor III (States Other Than California and New Jersey) (CA, NJ)	3685-4932 3709-5576
Revenue Auditor Trainee (States Other Than California and New Jersey) (CA, NJ)	2168-3031 2451-3427
Revenue Tax Specialist I (States Other Than California and New Jersey) (CA, NJ)	2168-3031 2451-3427
Revenue Tax Specialist II (States Other Than California and New Jersey) (CA, NJ)	2371-3357 2681-3795
Revenue Tax Specialist Trainee (States Other Than California and New Jersey) (CA, NJ)	1983-2753 2241-3112
Senior Public Service Administrator (States Other Than California and New Jersey) (CA, NJ)	4018-9168 4542-10364

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(Source: Emergency amendment at 21 Ill. Reg. 111.014, effective July 21, 1997, for a maximum of 150 days)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.450 Procedures for Determining Annual Merit Increases

EMERGENCY

- a) An annual merit increase is an in-range salary adjustment for demonstrated performance.
- b) Eligibility for an annual merit increase shall be determined by the following conditions:
 - 1) Each employee will be eligible for a merit review after attaining 12 months creditable service. The employee's immediate supervisor shall prepare an Individual Development and Performance Evaluation form prior to the Performance Review Date, and discuss the results with the employee.
 - 2) Should the Individual Development and Performance review result in the employee not being eligible for an annual merit increase due to provisions of subsection 310.450(d), or should the employee's base rate be at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase until 12 months of additional creditable service has been accrued.
- c) Based upon the results of the Individual Development and Performance Evaluation, the employees' immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase.
- d) Until further amendment, merit increases are suspended for Merit Compensation employees, except those who are subject to the alternative retirement formula.

The amount of an annual merit increase recommendation shall be determined for those employees subject to the alternative retirement formula by use of the Alternative Retirement Formula Merit Increase Guidechart of Section 310.540. The amount of an annual merit increase recommendation shall be determined by use of the Merit Increase Guidechart of Section 310.540 if the employee's individual development and performance evaluation has on the performance review date been evaluated at a category 3 or higher level. An employee whose individual development and performance evaluation has on the performance review date been evaluated at a category 4 shall not receive an increase in the present base salary.

However, in no event is the resulting salary to be lower than the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position.
- e) The employee's immediate supervisor shall prepare a Performance Certification and Salary Increase Recommendation form, indicating whether or not the employee is eligible for an annual merit increase

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Category 2	Accomplished/Satisfactory	0% to 4%
Category 3	Less Than Satisfactory	0%
Category-1	Exceptional	0%-to-5%-+--\$125
Category-2	Accomplished	0%-to-3%-+--\$125
Category-3	Acceptable	0%-to-3%
Category-4	Unacceptable	\$0

(Source: Emergency amendment at 21 Ill. Reg. 100.1, effective July 21, 1997, for a maximum of 150 days)

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- and the amount thereof.
- f) The employee's immediate supervisor shall forward the Individual Development and Performance Evaluation records and Performance Certification and Salary Increase Recommendation records to the agency head or a designated authority for review and approval.
- g) Annual merit increases in pay shall become effective the first day of the month in which the employee's Performance Review Date occurs.

(Source: Emergency amendment at 21 Ill. Reg. 100.1, effective July 21, 1997, for a maximum of 150 days)

Section 310.530 Implementation
EMERGENCY

- a) The salary schedule for the Merit Compensation System for Fiscal Year 1998 will continue 1997-98 as set forth in Appendix D of the Pay Plan.
- b) The Merit Increase Guidechart for Fiscal Year 1998 1997-98 as set forth in Section 310.540 of the Pay Plan is modified to suspend merit increases until further amendment, except for those employees subject to the alternative retirement formula whose retirement formula rates were not changed. The Alternative Merit Increase Guidechart in Section 310.540 will apply for these alternative retirement formula employees.
- c) Employees subject to the Merit Compensation System shall receive a one-time lump sum payment of \$565, except those employees subject to the alternative retirement formula, those employees on emergency or temporary appointment, and those employees who work less than 75% of the regular work schedule who will have the \$565 prorated on the basis of the employee's work schedule as a percent of the regular work schedule of the organizational unit.

(Source: Emergency amendment at 21 Ill. Reg. 100.1, effective July 21, 1997, for a maximum of 150 days)

Section 310.540 Annual Merit Increase Guidechart for Fiscal Year 1998 1997
EMERGENCY

Until further amendment, merit increases are suspended for all Merit Compensation employees other than those subject to the alternative retirement formula, effective July 1, 1997.

The Merit Increase Guidechart for alternative retirement formula employees only is as set forth below:

Category	Definition	Increase
Category 1	Exceptional	0% to 6%

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Section 310. APPENDIX B Schedule of Salary Grades -- Monthly Rates of Pay for Fiscal Year 1998 1997

EMERGENCY

Salary Grade	Step 1c	Step 1b	Step 1a	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
1	1284	1323	1363	1404	1447	1486	1529	1578	1619	1695
2	1324	1364	1405	1447	1486	1529	1580	1625	1670	1747
3	1360	1401	1443	1486	1529	1581	1628	1674	1722	1811
4	1399	1441	1484	1529	1581	1632	1678	1735	1782	1874
5	1447	1490	1535	1581	1634	1688	1742	1793	1846	1937
6	1495	1540	1586	1634	1689	1744	1804	1860	1920	2017
7	1546	1592	1640	1689	1747	1809	1870	1931	1995	2102
8	1599	1647	1696	1747	1814	1879	1950	2013	2082	2192
9	1660	1710	1761	1814	1882	1955	2025	2101	2173	2287
10	1724	1776	1829	1884	1966	2037	2115	2189	2268	2394
11	1800	1854	1910	1967	2049	2124	2211	2293	2371	2504
12	1885	1942	2000	2060	2148	2228	2321	2405	2497	2636
13	1967	2026	2087	2150	2240	2336	2431	2522	2619	2768
14	2062	2124	2188	2254	2350	2449	2559	2656	2759	2919
15	2153	2218	2285	2354	2463	2570	2675	2784	2888	3060
16	2262	2330	2400	2472	2586	2704	2817	2934	3052	3232
17	2373	2444	2517	2593	2717	2843	2962	3083	3208	3399
18	2501	2576	2653	2733	2866	2999	3135	3264	3394	3596
19	2637	2716	2797	2881	3028	3170	3317	3457	3602	3819
20	2786	2870	2956	3045	3197	3348	3506	3657	3808	4041
21	2942	3030	3121	3215	3380	3543	3708	3877	4038	4289

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22	3110	3203	3299	3398	3575	3750	3926	4108	4281	4546
23	3299	3398	3500	3605	3796	3990	4179	4372	4562	4848

Schedule of Salary Grades (Alternative Retirement Formula only) - Monthly Rates of Pay for Fiscal Year 1998

Salary Grade	Step 1c	Step 1b	Step 1a	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
1a	1323	1363	1404	1446	1490	1531	1575	1625	1668	1746
2a	1364	1405	1447	1490	1531	1575	1627	1674	1720	1799
3a	1401	1443	1486	1531	1575	1628	1677	1724	1774	1865
4a	1441	1484	1529	1575	1628	1681	1728	1787	1835	1930
5a	1490	1535	1581	1628	1683	1739	1794	1847	1901	1995
6a	1540	1586	1634	1683	1740	1796	1858	1916	1978	2078
7a	1592	1640	1689	1740	1799	1863	1926	1989	2055	2165
8a	1647	1696	1747	1799	1868	1935	2009	2073	2144	2258
9a	1710	1761	1814	1868	1938	2014	2086	2164	2238	2356
10a	1776	1829	1884	1941	2025	2098	2178	2255	2336	2466
11a	1854	1910	1967	2026	2110	2188	2277	2362	2442	2579
12a	1942	2000	2060	2122	2212	2295	2391	2477	2572	2715
13a	2026	2087	2150	2215	2307	2406	2504	2598	2698	2851
14a	2124	2188	2254	2322	2421	2522	2636	2736	2842	3007
15a	2218	2285	2354	2425	2537	2647	2755	2868	2975	3152
16a	2330	2400	2472	2546	2664	2785	2902	3022	3144	3329
17a	2444	2517	2593	2671	2799	2928	3051	3175	3304	3501
18a	2576	2653	2733	2815	2952	3089	3229	3362	3496	3704
19a	2716	2797	2881	2967	3119	3265	3417	3561	3710	3934

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<u>20a</u>	<u>2870</u>	<u>2956</u>	<u>3045</u>	<u>3136</u>	<u>3293</u>	<u>3448</u>	<u>3611</u>	<u>3767</u>	<u>3922</u>	<u>4162</u>
<u>21a</u>	<u>3030</u>	<u>3121</u>	<u>3215</u>	<u>3311</u>	<u>3481</u>	<u>3649</u>	<u>3819</u>	<u>3993</u>	<u>4159</u>	<u>4418</u>
<u>22a</u>	<u>3203</u>	<u>3299</u>	<u>3398</u>	<u>3500</u>	<u>3682</u>	<u>3863</u>	<u>4044</u>	<u>4231</u>	<u>4409</u>	<u>4682</u>
<u>23a</u>	<u>3398</u>	<u>3500</u>	<u>3605</u>	<u>3713</u>	<u>3910</u>	<u>4110</u>	<u>4304</u>	<u>4503</u>	<u>4699</u>	<u>4993</u>

(Source: Emergency amendment at 21 Ill. Reg. 14.01, effective July 21, 1997, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310. APPENDIX C Medical Administrator Rates for Fiscal Year 1998 1997
EMERGENCY

Title	Minimum Salary	Midpoint Salary	Maximum Salary
Medical Administrator I, Option C	6,845	8,327	9,809
Medical Administrator I, Option D	7,644	9,168	10,692
Medical Administrator II, Option C	7,396	8,906	10,416
Medical Administrator II, Option D	8,494	10,070	11,646
Medical Administrator III	8,795	10,522	12,249
Medical Administrator IV	8,938	10,665	12,392
Medical Administrator V	9,082	10,811	12,540

The rates of pay for physicians occupying or appointed to a position in the Medical Administrator classes shall be as listed in the above schedule. All provisions of Subpart C of the Pay Plan, Merit Compensation System will apply to the Medical Administrator positions.

(Source: Emergency amendment at 21 Ill. Reg. 14.01, effective July 21, 1997, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX D Merit Compensation System Salary Schedule for Fiscal
Year 1998 1997
EMERGENCY

Salary Range	Minimum Salary	Midpoint Salary	Maximum Salary
MC 01	1,813	2,411	3,009
MC 02	1,891	2,533	3,175
MC 03	1,982	2,680	3,378
MC 04	2,072	2,806	3,540
MC 05	2,175	2,968	3,761
MC 06	2,285	3,119	3,953
MC 07	2,406	3,308	4,210
MC 08	2,536	3,509	4,482
MC 09	2,680	3,704	4,728
MC 10	2,831	3,944	5,057
MC 11	2,990	4,187	5,384
MC 12	3,175	4,467	5,759
MC 13	3,390	4,775	6,160
MC 14	3,626	5,126	6,626
MC 15	3,892	5,496	7,100
MC 16	4,166	5,905	7,644
MC 17	4,496	6,373	8,250
MC 18	4,846	6,853	8,460
MC 19	5,234	6,945	8,656

(Source: Emergency amendment at 21 Ill. Reg. 300.00, effective July
21, 1997, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX G Broad-Band Pay Range Classes Salary Schedule for Fiscal
Year 1998
EMERGENCY

Title	Minimum Salary	Maximum Salary
Human Resources Representative	1,891	3,540
Human Resources Specialist	2,175	4,210
Public Service Administrator	2,536	5,382
Senior Public Service Administrator, Level I	3,494	6,097
Senior Public Service Administrator, Level II	4,292	7,972

(Source: Emergency amendment at 21 Ill. Reg. 300.00, effective July
21, 1997, for a maximum of 150 days)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program

- 2) Code Citation: 35 Ill. Adm. Code 663

3) Section Numbers Emergency Action

663.110	New Section
663.120	New Section
663.130	New Section
663.140	New Section
663.150	New Section
663.160	New Section
663.210	New Section
663.220	New Section
663.230	New Section
663.240	New Section
663.250	New Section
663.260	New Section
663.270	New Section

- 4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.8 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 - 19.8].

- 5) Effective Date of Emergency Rules: July 17, 1997

- 6) If this emergency rule is to expire before the end of the 150-day period, specify the date on which it is to expire: This emergency rule is to remain effective for the full 150 days.

- 7) Date Filed in Agency's Principal Office: July 17, 1997

- 8) Reason for Emergency: In the 1996 Amendments to the Federal Safe Drinking Water Act (P.L. 1004-182, Sec. 3), the U.S. Congress, in furtherance of a legislative finding that "safe drinking water is essential to the protection of public health" and that "because the requirements of the Safe Drinking Water Act now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help [them] meet the Federal drinking water requirements," established the drinking water revolving loan program, which provides capitalization grants to the States to set up state loan programs for public water supplies to finance infrastructure needed to achieve or maintain compliance with the Safe Drinking Water Act and to protect public health. 42 U.S.C. 300j-12. To enable Illinois to participate in the loan program, the General Assembly created the Public Water Supply Loan Program ("PWSLP"). In establishing the PWSLP, the General Assembly made the legislative finding that "violations of State and federal drinking water

ENVIRONMENTAL PROTECTION AGENCY

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standards threaten the public interest, safety and welfare, which demands that the Illinois Environmental Protection Agency expeditiously adopt emergency rules to administer" the Public Water Supply Loan Program [415 ILCS 5/19.1]. The General Assembly further emphasized the importance of the PWSLP in safeguarding the public health and safety by directing the Agency to give priority to "local government units that need to make capital improvements to protect human health and to achieve compliance with the state and federal primary drinking water standards" [415 ILCS 5/19.4]. These rules will also allow the Agency to initiate negotiations with USEPA regarding the operation of the PWSLP and the receipt of \$38 million in federal grant funds appropriated to the Illinois program for federal fiscal year 1997. This \$38 million is currently available to the State upon federal approval of the Illinois program, and it is in the best interests of the State, and particularly of the communities that will benefit from the PWSLP, to access these funds as quickly as possible. The Agency has already received numerous inquiries from public water supplies concerning the PWSLP, as well as preliminary loan applications.

- 9) A Complete Description of the Subjects and Issues Involved: The 1996 Amendments to the Federal Safe Drinking Water Act, 42 U.S.C. 300j, establish a program of federal grant awards to the states to provide low interest loan assistance to local government units to construct and upgrade their public water supplies to bring them into compliance with State and federal drinking water requirements. The General Assembly has established the Public Water Supply Loan Program to allow the State of Illinois to take advantage of the federal grant funds, and has designated the Illinois Environmental Protection Agency as the administering agency (see 415 ILCS 5/19.1 through 19.8). This Part 663 sets out the scoring criteria and methodology the Agency will follow in establishing the priority of projects to be funded under the PWSLP. Part 662 of the proposed rules sets out the procedures that the Agency will follow in administering the PWSLP.

- 10) Are there any proposed amendments pending on this Part other than those appearing in the same issue of the Illinois Register as the emergency rules: No

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3]. These proposed rules are consistent with the policy objectives set out in Title IV-A of the Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

- 12) Information and questions regarding this adopted emergency rule shall be directed to:

Ron Drainer, Manager
Infrastructure Financial Assistance

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY RULES

Division of Water Pollution Control
Bureau of Water
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield Illinois 62794-9276
(217) 782-2027

The full text of the emergency rule begins on the next page.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 663

PROCEDURES AND REQUIREMENTS FOR DETERMINING LOAN
PRIORITIES OF PROJECTS IN THE PUBLIC WATER SUPPLY LOAN PROGRAM

SUBPART A: INTRODUCTION

Section	Purpose
663.110	Purpose
EMERGENCY	
663.120	Definitions
EMERGENCY	
663.130	Incorporation by Reference
EMERGENCY	
663.140	Priority System and Project Priority List
EMERGENCY	
663.150	Pre-application Information
EMERGENCY	
663.160	Project Rescoring
EMERGENCY	

SUBPART B: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX

Section	Formula for Computing the Loan Priority Index
663.210	Formula for Computing the Loan Priority Index
EMERGENCY	
663.220	A1 Factor - Population
EMERGENCY	
663.230	A2 Factor - Project Need
EMERGENCY	
663.240	A3 Factor - Financial Hardship
EMERGENCY	
663.250	A4 Factor - Small Public Water Systems
EMERGENCY	
663.260	A5 Factor - Readiness to Proceed
EMERGENCY	
663.270	Scoring Conventions
EMERGENCY	

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.8 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

SOURCE: Emergency rule adopted at 21 Ill. Reg. ___, effective July 17, 1997, for a maximum of 150 days.

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SUBPART A: INTRODUCTION

**Section 663.110 Purpose
EMERGENCY**

This Part sets forth the procedures and requirements established by the Illinois Environmental Protection Agency (Agency) for determining priorities in awarding financial assistance for the construction of public water supply facilities under the Environmental Protection Act (The Act) [415 ILCS 5] and the federal Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300f).

**Section 663.120 Definitions
EMERGENCY**

a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act [415 ILCS 5], the federal Safe Drinking Water Act (42 U.S.C. 300f) and regulations adopted under these Acts, including 35 Ill. Adm. Code: Subtitle F, Part 662.

b) For purposes of these rules, the following definitions apply:

"Acute Violation" -- Exceedance of a maximum contaminant level (MCL) or treatment technique requirement for a contaminant that would cause an acute health effect with a sudden onset, sharp rise and short course of illness as provided in the National Primary Drinking Water Rules (40 CFR 141.32).

"Agency" -- Illinois Environmental Protection Agency and its authorized representatives.

"Chronic Violation" -- Exceedance of an MCL or treatment technique requirement for a contaminant that would cause health effect of a chronic nature requiring a long exposure to the contaminant before effects occur, as provided in National Primary Drinking Water Regulations (40 CFR 141.32).

"Fund" -- The Water Revolving Fund authorized by 415 ILCS 5/19.2, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program and the Loan Support Program.

"Health Hazard Determination" -- A Health Hazard Determination exists when concentrations of regulated contaminants, in a water supply, or concentrations of contaminants not otherwise regulated, exceed health effects standards published in U.S. Environmental Protection Agency (U.S. EPA) Health Advisories, or by the Illinois Department of Public Health or by the U. S. Centers for Disease Control or which otherwise pose an immediate threat to public health.

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"Intended Use Plan" -- A plan which includes a description of the short and long term goals and objectives of the PWSLP, project categories, terms of financial assistance, communities and populations benefitted. [415 ILCS 5/19.2(e)]

"Local Government Unit" -- A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both. [415 ILCS 5/19.2(g)]

"Maximum Contaminant Level" (MCL)-- The maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

"Monthly Operating Reports" -- Reports submitted monthly by public water supplies that report on the operation of the water supply, including water pumpage, chemical additions, chemical residuals and maintenance.

"PWSLP" -- The Public Water Supply Loan Program as authorized by 415 ILCS 5/19.1 through 19.8.

"Priority System" -- The methodology used by the Agency to rank projects for inclusion on the Project Priority List.

"Project Priority List" -- An ordered listing of projects developed in accordance with this Part 663 which the Agency has determined are eligible to receive financial assistance from the PWSLP.

"SDWA" -- The federal Safe Drinking Water Act, 42 U.S.C. 300f.

"Treatment Technique Requirement" -- An enforceable procedure developed by U.S. EPA when it is not economically or technologically feasible to ascertain the level of a contaminant. Public water supplies must follow this procedure and treat their drinking water supplies according to U.S. EPA specifications to ensure the contaminant is controlled.

**Section 663.130 Incorporation by Reference
EMERGENCY**

U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census: 1990 Census Population and Housing: Summary Social, Economic, and Housing Characteristics, Illinois, Table 9, 1990 CPH-S-15 (no later editions or amendments).

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**Section 663.140 Priority System and Project Priority List
EMERGENCY**

- a) Financial assistance will be provided from the PWSLP only to projects that are identified on the Project Priority List.
- b) Projects will be ranked for inclusion on the Project Priority List using the methodology set out in this Subpart B of Part 663.
- c) The Agency will provide the list to individual members of the public upon request. All public comments received will be taken into account in establishing the Project Priority List.
- d) A project with approved project planning may be added to the Project Priority List at any time by the submission of the pre-application information.

**Section 663.150 Pre-application Information
EMERGENCY**

- a) A local government unit may submit pre-application information at any time. The pre-application information must identify the reason for the project, the scope of the project, the population to be served by the project, a cost estimate and a schedule for completion of the project.
- b) In order for a project to be included on the Project Priority List and the Intended Use Plan for fiscal year 1997, the Agency must receive the pre-application information by July 25, 1997.
- c) In order for a project to be included on the Project Priority List and Intended Use Plan for fiscal year 1998, the Agency must receive the pre-application information by October 31, 1997.

**Section 663.160 Project Rescoring
EMERGENCY**

- a) The priority of projects on the Project Priority List will be adjusted to reflect the loan application status of projects on March 31, 1998.
- b) Projects on the Project Priority List may be split into more than one project, deleted or modified as a result of the approval of the project planning (see Ill. Adm. Code 662: Subpart E).

**SUBPART B: PROCEDURE FOR CALCULATING THE LOAN
PRIORITY INDEX****Section 663.210 Formula for Computing the Loan Priority Index
EMERGENCY**

The Loan Priority Index (LPI) is a number that is the product of five factors. The LPI is calculated as follows: $(A1 + A2 + A3 + A4) \times A5 = LPI$.

Section 663.220 A1 Factor (Population)

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EMERGENCY

A1 is a factor which evaluates the existing population that is served by the proposed project. A1 is calculated as log base 10 of the number of persons served by the project, with a maximum value of 5.30 points. The applicant shall provide the population served figure, which the Agency will verify from its records.

**Section 663.230 A2 Factor (Project Need)
EMERGENCY**

A2 is a factor that evaluates and quantifies eligible drinking water needs associated with a proposed project. The need for the proposed projects will be quantified by using the single most appropriate of the following methodologies:

- a) For projects that meet the Health Hazard Determination criteria set out in Section 663.120, the A2 score will be 100 points.
- b) For projects that will correct violations of the Safe Drinking Water Act determined through compliance monitoring, points will be awarded based on the seriousness of the violations that make the project necessary. The violations will be quantified from the applicant's Monthly Operating Reports. The values for the violations are as follows:
 - 1) Acute Violation 75 points;
 - 2) Chronic Violation 50 points
- c) For projects that will prevent future acute or chronic violations and address a need that has been demonstrated by compliance monitoring, Section 663.260 allows for assigning a portion of the acute and chronic violation points for priority scoring purposes.
- d) For projects that will correct violations of the State's protection of public health rules regarding adequate pressure, transmission, and storage of drinking water, as contained in 35 Ill. Adm. Code Part: 653, and evidenced by an Agency issued notice of violation, Agency field inspection report or Agency approved project planning, the A2 factor value will be 25 points.
- e) For projects that will extend or provide community drinking water to an area currently served by private wells will receive a score of 15 points, plus a need factor which will be quantified from the percentage of private wells found to be out of compliance with regulations or advisories administered by the Illinois Department of Public Health and which pose a potential threat to public health based on sampling or inspection as determined by the health authority responsible for the area to be served. The percentage of wells, expressed as a decimal, that are unsatisfactory will be multiplied by 10 and the result added to the 15 points to complete the A2 score.
- f) Renovation, repair, reconstruction or replacement of facilities to maintain the safe and adequate water supply capabilities for which they were designed and to enable their continued service will be assigned an A2 value of 10 points.

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**Section 663.240 A3 Factor (Financial Hardship)
EMERGENCY**

A3 is a factor which adds points for applicants that have a higher rate of unemployment than the State average, and includes points for the percentage of persons in poverty. The A3 factor is calculated by adding the unemployment percentage points to the persons in poverty points from the following tables:

Percentage Above State Average Unemployment Rate

Percentage	Points
0.1 to 2.0	1.25
2.1 - 4.0	2.50
4.1 - 6.0	3.75
6.1 and above	5.00

Percentage of Persons in Poverty

Percentage	Points
5.0 - 10.0	1.00
10.1 - 15.0	2.00
15.1 - 20.0	3.00
20.1 - 25.0	4.00
25.1 - and above	5.00

**Section 663.250 A4 Factor (Small Public Water Systems)
EMERGENCY**

A4 is a factor that provides a five point bonus to public water systems serving populations of less than 10,000.

**Section 663.260 A5 Factor (Readiness to Proceed)
EMERGENCY**

A5 is a factor that measures the progress that an applicant has made on completing an application for loan assistance. A5 will be calculated by adding the points awarded for completion of significant milestones to the one point that will be awarded to all projects as follows: (A5a + A5b + A5c + A5d + A5e) + 1 = A5. The points awarded for each of the significant application items as follows:

- a) Submission of project planning 0.20 points;
- b) Agency approved project planning 0.20 points;
- c) Submission of plans and specifications 0.10 points;
- d) Agency approved plans and specifications 0.30 points;
- e) Agency approved dedicated source of revenue 0.20 points.

**Section 663.270 Scoring Conventions
EMERGENCY**

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- a) For purposes of assigning the A2 factor, projects that are being proposed to meet regulations that have been published in the Federal Register but have a future effective date will be considered the same as projects to correct violations of regulations that are already in effect.
- b) Projects that are being proposed to prevent future acute or chronic violations predicted by compliance monitoring are eligible for A2 factor points as follows:

- 1) The applicant's compliance monitoring records must show concentrations of the contaminant to be controlled of at least 75% of the acute or chronic violation limit (existing contaminant concentration divided by acute/chronic limit x 100 = % violation limit);
- 2) The A2 points for the project will be calculated by multiplying the percentage violation limit by the appropriate acute or chronic A2 points in Section 663.230(b).
- c) For integrally related projects which require construction by more than one local government unit, each project will proceed at the Loan Priority Index of the component project with the most favorable priority ranking.

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- 1) Heading of the Part: Procedures for Issuing Loans from the Public Water Supply Loan Program

- 2) Code Citation: 35 Ill. Adm. Code 662

- 3) Section Numbers Emergency Action

662.110	New Section
662.120	New Section
662.130	New Section
662.140	New Section
662.210	New Section
662.220	New Section
662.310	New Section
662.320	New Section
662.330	New Section
662.340	New Section
662.410	New Section
662.420	New Section
662.430	New Section
662.440	New Section
662.450	New Section
662.460	New Section
662.470	New Section
662.510	New Section
662.520	New Section
662.610	New Section
662.620	New Section
662.630	New Section
662.640	New Section
662.650	New Section
662.660	New Section
662.670	New Section
662.710	New Section
662.720	New Section
662.730	New Section
662.740	New Section
662.750	New Section
662.810	New Section
662.820	New Section
662.830	New Section
662.910	New Section
662.920	New Section
662.930	New Section
662.940	New Section
662.1010	New Section
662.1020	New Section
662.1030	New Section
662.1110	New Section

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662.1120 New Section
 APPENDIX A Executive Orders
 EXHIBIT A Executive Order 12138 New Section
 EXHIBIT B Executive Order 12138 New Section
 EXHIBIT C Executive Order 12549 New Section

- 4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.8 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

- 5) Effective Date of Emergency Rules: July 17, 1997

- 6) If this emergency rule is to expire before the end of the 150-day period, specify the date on which it is to expire: This emergency rule is to remain effective for the full 150 days.

- 7) Date Filed in Agency's Principal Office: July 17, 1997

- 8) Reason for Emergency: In the 1996 Amendments to the federal Safe Drinking Water Act (P.L. 1004-182, Sec. 3), the U.S. Congress, in furtherance of a legislative finding that "safe drinking water is essential to the protection of public health" and that "because the requirements of the Safe Drinking Water Act now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help [them] meet the Federal drinking water requirements," established the drinking water revolving loan program, which provides capitalization grants to the States to set up state loan programs for public water supplies to finance infrastructure needed to achieve or maintain compliance with the Safe Drinking Water Act and to protect public health. 42 U.S.C. 300j-12. To enable Illinois to participate in the loan program, the General Assembly created the Public Water Supply Loan Program ("PWSLP"). In establishing the PWSLP, the General Assembly made the legislative finding that "violations of State and federal drinking water standards threaten the public interest, safety and welfare, which demands that the Illinois Environmental Protection Agency expeditiously adopt emergency rules to administer" the Public Water Supply Loan Program [415 ILCS 5/19.1]. The General Assembly further emphasized the importance of the PWSLP in safeguarding the public health and safety by directing the Agency to give priority to "local government units that need to make capital improvements to protect human health and to achieve compliance with the state and federal primary drinking water standards" [415 ILCS 5/19.4]. These rules will also allow the Agency to initiate negotiations with USEPA regarding the operation of the PWSLP and the receipt of \$38 million in federal grant funds appropriated to the Illinois program for federal fiscal year 1997. This \$38 million is currently available to the State upon federal approval of the Illinois program, and it is in the best interests of the State, and particularly of the communities that will

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY RULES

benefit from the PWSLP, to access these funds as quickly as possible. The Agency has already received numerous inquiries from public water supplies concerning the PWSLP, as well as preliminary loan applications.

- 9) A Complete Description of the Subjects and Issues Involved: The 1996 Amendments to the federal Safe Drinking Water Act, 42 U.S.C. 300j, establish a program of federal grant awards to the states to provide low interest loan assistance to local government units to construct and upgrade their public water supplies to bring them into compliance with State and federal drinking water requirements. The General Assembly has established the Public Water Supply Loan Program to allow the State of Illinois to take advantage of the federal grant funds, and has designated the Illinois Environmental Protection Agency as the administering agency. These emergency rules set out the procedures that the Agency will follow in administering the Public Water Supply Loan Program. This Part 662 (which is modeled on the existing Water Pollution Control Revolving Loan Program as set out in 35 Ill. Adm. Code 365) establishes loan eligibility criteria, including application and planning requirements; procedures applicable to project construction, including contract bids and awards, physical construction, and project completion; and procedures the Agency will follow in loan administration, including auditing and records, review of financial capability and dedicated source of revenue for loan repayment, loan disbursement, and loan termination. A companion emergency rulemaking, "Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program," 35 Ill. Adm. Code 663, sets out the methodology the Agency will use in prioritizing projects for funding by the PWSLP.

- 10) Are there any proposed amendments pending on this Part other than those appearing in the same issue of the Illinois Register as the emergency rules: No

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3]. These emergency rules are consistent with the policy objectives set out in Title IV-A of the Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

- 12) Information and questions regarding this adopted emergency rule shall be directed to:

Ron Drainer, Manager
Infrastructure Financial Assistance
Bureau of Water
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield Illinois 62794-9276

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217/782-2027

The full text of the Emergency rule begins on the next page.

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NOTICE OF EMERGENCY RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 662

PROCEDURES FOR ISSUING LOANS FROM THE
PUBLIC WATER SUPPLY LOAN PROGRAM

SUBPART A: INTRODUCTION

Section	Purpose
662.110	Purpose
EMERGENCY	
662.120	Administration
EMERGENCY	
662.130	Definitions
EMERGENCY	
662.140	Incorporations by Reference
EMERGENCY	

SUBPART B: FEDERAL REQUIREMENTS FOR
THE PUBLIC WATER SUPPLY LOAN PROGRAM

Section	Uses of the Public Water Supply Loan Program
662.210	Uses of the Public Water Supply Loan Program
EMERGENCY	
662.220	Agency Responsibilities Under the Federal Safe Drinking Water Act
EMERGENCY	

SUBPART C: LIABILITIES AND REMEDIES FOR
FAILURE TO COMPLY WITH LOAN PROCEDURES

Section	Noncompliance with Loan Procedures
662.310	Noncompliance with Loan Procedures
EMERGENCY	
662.320	Stop-Work Order
EMERGENCY	
662.330	Termination
EMERGENCY	
662.340	Waiver of Procedures
EMERGENCY	

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section	Project Priority Determination
662.410	Project Priority Determination
EMERGENCY	

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NOTICE OF EMERGENCY RULES

662.420	Pre-Application Information for Financial Assistance and Identification of Projects to be Funded
EMERGENCY	
662.430	Financial Assistance Application and Approval
EMERGENCY	
662.440	Fixed Loan Rates
EMERGENCY	
662.450	Restrictions on Refinancing
EMERGENCY	
662.460	Limitation on Design Cost
EMERGENCY	
662.470	Limitation on Loan Amount
EMERGENCY	

SUBPART E: PROJECT PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section	Loan Applicant's Responsibilities During Project Planning
662.510	Loan Applicant's Responsibilities During Project Planning
EMERGENCY	
662.520	State Environmental Review
EMERGENCY	

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section	Requirements for Subagreements
662.610	Requirements for Subagreements
EMERGENCY	
662.620	Construction Contracts
EMERGENCY	
662.630	Contracts for Personal and Professional Services
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662.640	Compliance with Procurement Requirements for Construction Contracts
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EXHIBIT C Executive Order 12549
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AUTHORITY: Implementing and authorized by Sections 19.1 through 19.8 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

SOURCE: Emergency rule adopted at 21 Ill. Reg. 1008, effective July 17, 1997, for a maximum of 150 days.

SUBPART A: INTRODUCTION

Section 662.110 Purpose
EMERGENCY

The federal Safe Drinking Water Act Amendments of 1996 include a mechanism to provide capitalization grants to the states for the purpose of establishing drinking water revolving loan funds. 42 U.S.C. 300j-12 authorizes the Administrator of the United States Environmental Protection Agency to enter into agreements with the states to establish these loan funds, and establishes specific requirements for the development and operation of the state loan programs. The Illinois General Assembly has created the Public Water Supply Loan Program ("PWSLP"), to be administered by the Illinois Environmental Protection Agency [415 ILCS 5/19.1-19.8]. This Part 662 sets out the procedures the Agency will use to operate the PWSLP, including the issuance of loans for the construction of public water supply facilities.

Section 662.120 Administration
EMERGENCY

The Public Water Supply Loan Program, an interest-bearing special fund, will be administered by the Agency as an instrumentality of the State of Illinois in accordance with the Operating and Capitalization Grant Agreements between the Agency and the U. S. EPA in accordance with State and federal laws.

Section 662.130 Definitions
EMERGENCY

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (Act) [415 ILCS 5] and the regulations adopted thereunder.
- b) For the purposes of this Part, the following definitions apply:

Addenda --Documents issued by the loan applicant after advertisement

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for bids, which modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications or corrections.

Agency--Illinois Environmental Protection Agency.

Binding Commitment--A legal obligation between the Agency and a local government unit to provide financial assistance from the Public Water Supply Loan Program to that local government unit, specifying the terms and schedules under which assistance is provided. The loan agreement will be considered a binding commitment.

Building Cost--The cost of erection of construction contract line items. Building costs do not include preliminary planning, engineering, architectural, legal, fiscal, administrative or contingency costs.

Capitalization Grant--The actual federal funds received by the Agency for deposit into the PWSLP as a result of the capitalization grant agreement with the U.S. EPA.

Capitalization Grant Agreement--The agreement entered into each federal fiscal year between the Agency and the U.S. EPA for the purpose of providing a grant to capitalize the PWSLP and enable the Agency to provide assistance for construction of public water supply facilities.

Change Order--A written order by the loan recipient to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

Construction--Any one or more of the following which is undertaken for a public purpose: preliminary planning to determine the feasibility of the public water supply facilities; engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of public water supply facilities, or the inspection or supervision of any of the foregoing items. [415 ILCS 5/19.2(d)]

Contract Documents--The contract, including but not limited to advertisement for bids, information for bidders, bid, bid bond agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications, and addenda.

Dedicated Source of Revenue--The type of security and the basis of

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legal authorization which are dedicated by legislative enactment or other appropriate authority along with the applicable revenue source pledged for repayment and deposited into an account restricted to the purpose of loan repayment to the PWSLP, which is sufficient to repay the principal and interest on the loan.

Design--All administrative, legal, and engineering tasks, subsequent to project plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems.

Director--Director of the Illinois Environmental Protection Agency.

Fixed Loan Rate--One-half the market interest rate rounded to the nearest one hundredth of one percent but not less than 2.50 percent.

Fund--The Water Revolving Fund authorized by 415 ILCS 5/19.3, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program.

Initiation of Loan Repayment Period--The date in a loan agreement or amendment that establishes the beginning point of the loan repayment period.

Initiation of Operation--The date specified by the loan agreement on which use of the project began operation for the purposes that it was planned, designed and constructed.

Intended Use Plan--A plan which includes a description of the short and long term goals and objectives of the PWSLP, project categories, terms of financial assistance, communities and population benefitted. [415 ILCS 5/19.2(e)]

Interest Rate--Not less than one-fourth of the market interest rate rounded to the nearest one hundredth of one percent.

Loan Agreement--The contractual agreement between the Agency and the local government unit which contains the terms and conditions governing the loan issued from the PWSLP.

Loan Applicant--A local government unit that has applied for a loan from the PWSLP for construction of public water supply facilities.

Loan Commitment Letter--The letter that is sent by the Agency to the loan applicant which reserves loan funds and identifies the

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requirements that must be satisfied prior to the execution of the loan agreement.

Loan Procedures--The procedures for issuing loans from the public water supply loan program as set out in this Part 662.

Loan Recipient--A local government unit which has been provided a loan for construction of public water supply facilities from the PWSLP.

Loan Support Rate--Not more than one-fourth of the market interest rate rounded to the nearest one hundredth of one percent.

Local Government Unit--A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both. [415 ILCS 5/19.2(g)]

Market Interest Rate--The mean interest rate of the 20 General Obligation Bond Buyer Index, from July 1 to June 30 of the preceding State fiscal year rounded to the nearest one hundredth of a percent.

Operating Agreement--The agreement between the Agency and the U.S. EPA that establishes the policies, procedures and activities for the application and receipt of federal capitalization grant funds for capitalization of the PWSLP.

Principal--All disbursements including interest and loan support accrued on the disbursements that will be financed at the time the repayment schedule period begins.

Project--The activities or tasks the Agency identifies in the loan agreement for which the loan recipient may expend loan funds.

Project Priority List--An ordered listing of projects developed in accordance with the priority system described in 35 Ill. Adm. Code 663 Subpart B (Procedures for Calculating the Loan Priority Index) which the Agency has determined are eligible to receive financial assistance from the PWSLP.

PWSLP--The Public Water Supply Loan Program as authorized by Section 19.3 of the Environmental Protection Act [415 ILCS 5/19.3].

Responsible Bid--A bid that demonstrates the apparent ability of the bidder to successfully meet all the requirements specified in the contract documents. Information required to demonstrate responsibility may be corrected or submitted after bid opening.

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Responsive Bid--A bid that complies with all meaningful or material aspects of the contract documents. The bid must constitute a definite and unqualified offer to meet the material requirements of the contract documents including any terms that affect price, quality, quantity or time of delivery, or are clearly identified in the contract documents to be complied with at the risk of bid rejection for non-responsiveness. Bid defects resulting in a non-responsive bid may not be corrected after the bid opening.

SDWA--The federal Safe Drinking Water Act, as amended (42 U.S.C. 300f).

Subagreement--A written agreement between the loan recipient and another party and any tier of agreement thereunder to furnish services, supplies, or equipment necessary to complete the project for which a loan was provided, including contracts for personal and professional services and purchase orders.

Useful Life--The estimated period during which a public water supply facility is intended to be operable.

U.S. EPA--The United States Environmental Protection Agency.

Section 662.140 Incorporation by Reference EMERGENCY

a) The following publications are incorporated by reference:

- 1) American Institute of Certified Public Accountants Professional Standards, June 1, 1987, 666 Fifth Avenue, New York, New York 10019
- 2) Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers, Recommended Standards for Water Works, 1992 Edition. Health Research Inc., Health Education Services Division, P.O. Box 7126, Albany, New York 12224, (518) 439-7286
- 3) California State University, Sacramento, School of Engineering Small Water System Operation and Maintenance, Third Edition, 1995 Water Distribution System Operation and Maintenance, Third Edition, 1996 Water Treatment Plant Operation, Volume I, Third Edition, 1996 and Volume II, Second Edition, 1995
- 4) American Water Works Association, "WW" Book Store, 6666 West Quincy Avenue, Denver, Colorado 80235

Part I: Water Sources, Second Edition, 1995

Part II: Water Treatment, Second Edition, 1995

Part III: Water Transmission and Distribution, Second Edition,

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Part IV: Water Quality, Second Edition, 1995

Part V: Basic Science Concepts and Applications, 1995

- b) This Part 662 incorporates no future editions or amendments.

SUBPART B: FEDERAL REQUIREMENTS FOR
THE PUBLIC WATER SUPPLY LOAN PROGRAM

**Section 662.210 Uses of the Public Water Supply Loan Program
EMERGENCY**

- a) To accept and retain funds from grant awards, appropriations, transfers and payments of interest and principal;
- b) To make direct loans at or below market interest rates to any eligible local government unit to finance the construction of public water supplies;
- c) To buy or refinance debt obligations of a local government unit incurred on or after the effective date of S.B. 815 adopted by the 90th General Assembly;
- d) To guarantee local obligations where such action would improve credit market access or reduce interest rates;
- e) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State, if the proceeds of such bonds will be deposited in the PWSLP. [415 ILCS 5/19.3(d)]

**Section 662.220 Agency Responsibilities Under the Federal Safe Drinking Water Act
EMERGENCY**

The Agency will prepare an Intended Use Plan ("IUP") and negotiate an Operating Agreement with U.S. EPA, which will be the basis for the Capitalization Grant Agreement. These documents establish the procedures, activities and assurances for operation of the PWSLP, including but not limited to the following:

- a) Grant payments will be accepted in accordance with a payment schedule established jointly by the Agency and the U.S. EPA;
- b) A 20 percent State match will be deposited into the PWSLP according to an agreed upon schedule;
- c) A listing and description of projects on the Project Priority List to be provided financial assistance, the terms of financial assistance and the size of the community served;
- d) The loan repayment period cannot exceed 20 years beyond the earlier of the initiation of operation date or the initiation of the loan repayment period;

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- e) All repayments of loan principal and interest must be deposited into the PWSLP;
- f) Biennial reporting to the U.S. EPA on the Agency's activities under the Federal Safe Drinking Water Act;
- g) A description of the criteria and methods used for distribution of funds; and
- h) A description of the financial status of the PWSLP.

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO
COMPLY WITH LOAN PROCEDURES

**Section 662.310 Noncompliance with Loan Procedures
EMERGENCY**

- a) In the event of noncompliance with any condition or obligation arising out of the loan that occurs before the final audit, the Director may take any necessary action as provided by law or by the loan agreement against the loan recipient including, but not limited to, one or more of the following actions:
 - 1) Commence legal action in a court of competent jurisdiction;
 - 2) Declare all amounts under the loan immediately due and payable, enforce any security, and recover all loan funds;
 - 3) Terminate the loan pursuant to Section 662.330 (Termination);
 - 4) Suspend all or part of the project work pursuant to Section 662.320 (Stop-Work Order); or
 - 5) Reduce the amount of the loan by the amount of misused funds.
- b) No action shall be taken under this Section without prior consultation with the loan recipient.
- c) In determining whether to take action the Agency shall, at a minimum, consider mitigating or aggravating factors, including but not limited to, the severity and number of the violations; whether the violation is a continuing one; whether the loan recipient can remedy the violation; and whether the loan recipient remains capable of complying with the approved project work.

**Section 662.320 Stop-Work Order
EMERGENCY**

- a) The Agency may, for any violation of this Part, by written order, require the loan recipient to stop all or any part of the project work for a period of not more than 30 days after the date of the order, and for any further period to which the parties may agree. Any such order shall include a list of the project activities to which it applies. Upon receipt of a stop-work order, the loan recipient shall immediately comply with its terms and shall minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within 30 days of the date of the stop-work order, or within the period of any extension to which the parties have agreed,

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the Agency shall:

- 1) Cancel the stop-work order upon resolution of the violation or cause leading to that stop-work order; or
- 2) Terminate the work covered by the stop-work order as provided in Section 662.330(a).
- b) If a stop-work order is canceled or the period of the order or any extension thereof expires, the loan recipient shall resume work. An adjustment may be made in the loan period, the project period, the loan amount, or any combination of these, and the loan amended accordingly, if the loan recipient asserts a written claim for such an adjustment within 30 days after the end of the work stoppage.
- c) All costs that are incurred by the loan recipient after the receipt of a stop-work order or during any agreed to extension of the stop-work order period to which the Agency and the loan recipient have agreed, shall be deemed unallowable costs unless otherwise authorized by the Agency in writing or authorized under the loan procedures.

Section 662.330 Termination**EMERGENCY****a) Loan Termination by the Agency**

The Agency, by written notice and after consultation with the loan recipient, may terminate the loan in whole or in part. Cause for termination shall include, but not be limited to, failure by the loan recipient to comply with the terms and conditions of the loan or to provide adequate funding. Upon loan termination, the loan recipient shall refund any unexpended loan funds to the State of Illinois to be deposited in the PWSLP, except for such portion as may be required to pay the allowable costs of materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination.

b) Project Termination by the Loan Recipient

A loan recipient who wishes to terminate a project for which the loan has been provided must submit a written request to the Agency that documents good cause for the proposed termination. If the Agency agrees that there is good cause for termination of all or any portion of the project, it shall enter into a termination agreement with the recipient or unilaterally terminate the loan. If the Agency finds that the loan recipient has terminated the project without good cause, it shall declare the loan in default, and all loan funds previously paid to the loan recipient, together with interest thereon, shall be returned to the State of Illinois in accordance with a schedule established by the Agency for deposit into the PWSLP. Good cause to terminate a loan project includes, but is not limited to:

- 1) Changes in economic circumstances within the loan recipient's service area; and
- 2) Information that the approved treatment technology will not perform as originally anticipated.

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Section 662.340 Waiver of Procedures**EMERGENCY**

- a) Except as provided in subsection (b) below or otherwise required by law, the Director may waive any of the loan procedures, either in whole or in part by a written statement to the loan applicant, either as a special condition of the loan or otherwise, provided the Director finds that the procedure or requirement to be waived is not necessary to insure the integrity of the project, will not reduce an applicant's ability to repay the loan to the Agency or will not, in general, weaken the financial position of the PWSLP. The waiver may be subject to such additional conditions the Director deems necessary.
- b) The following procedures will not be waived:
 - 1) Section 662.410 (Project Priority Determination)
 - 2) Section 662.440 (Fixed Loan Rates)
 - 3) Section 662.510 (Loan Applicant's Responsibilities During Project Planning)
 - 4) Section 662.520 (State Environmental Review)
 - 5) Section 662.620(d)(3) (Wage Provisions)
 - 6) Section 662.620(d)(4) (MBE/WBE Requirements)
 - 7) Section 662.620(d)(5) (Debarred or Suspended Certification)
 - 8) Section 662.630(a)(1) (MBE/WBE Requirements)
 - 9) Section 662.630(a)(4) (Debarred or Suspended Certification)
 - 10) Section 662.740 (Operation and Maintenance of the Project)
 - 11) Section 662.910 (Operation, Maintenance and Replacement Revenue System)
 - 12) Section 662.930 (Dedicated Source of Revenue)

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section 662.410 Project Priority Determination**EMERGENCY**

- a) Financial assistance from the PWSLP will be provided only to local government units for projects on the Project Priority List developed by the Agency pursuant to 35 Ill. Adm. Code 663.
- b) The Project Priority List sets out the priority for receipt of loans for each loan applicant. Priorities will be established in accordance with 35 Ill. Adm. Code 663 after the receipt by the Agency of loan (Pre-Application information pursuant to Section 662.420 (Pre-Application Information for Financial Assistance and Identification of Projects to be Funded)).
- c) Projects included on the Intended Use Plan will be selected from projects on the Project Priority List to be funded in priority order.

Section 662.420 Pre-Application Information for Financial Assistance and Identification of Projects to be Funded**EMERGENCY**

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- a) Every loan applicant shall submit to the Agency pre-application information that includes the following items:
- 1) The reason for the proposed project;
 - 2) A description of the proposed project;
 - 3) An estimated project cost;
 - 4) A proposed schedule for construction; and
 - 5) The population to be served by the proposed project.
- b) The Agency will determine the relative priority of the project on the Project Priority List in accordance with the procedures in Part 663.
- c) In order to qualify for possible inclusion on the Intended Use Plan for Fiscal Year 1997, loan applicants must file pre-application information with the Agency by August 11, 1997.
- d) In order to qualify for possible inclusion on the Intended Use Plan for Fiscal Year 1998, loan applicants must file pre-application information with the Agency by October 31, 1997.
- e) The Agency will develop a list of the projects that are proposed for funding. These projects will be included on the Intended Use Plan.
- f) A project with approved project planning may be added to the Project Priority List at any time by the submission of pre-application information.
- g) After March 31, 1998, the Agency may bypass projects on the Intended Use Plan and substitute other projects listed on the Project Priority List if the IUP projects will not initiate construction by June 30, 1998.

Section 662.430 Financial Assistance Application and Approval EMERGENCY

- a) In order to issue a loan commitment letter, the Agency must have received the following documents:
- 1) A completed loan application form for financial assistance;
 - 2) An approved project plan in accordance with Section 662.510 (Loan Applicant's Responsibilities During Project Planning);
 - 3) Loan Program Certifications;
 - 4) An executed inter-governmental agreement necessary for project implementation, where necessary;
 - 5) Certification of compliance with federal Executive Order 12549 (Appendix A) regarding debarment, suspension and other responsibility matters;
 - 6) A resolution or ordinance authorizing a representative of the loan applicant to sign loan application documents;
 - 7) Evidence of compliance with the Relocation and Real Property Acquisition Policies Act of 1970 (P.L. 91-646);
 - 8) A statement that the necessary project site, rights-of-way, easements and permits have been obtained;
 - 9) A statement of intent to comply with the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127) in accordance with Section 662.940 (Floodplain Insurance);

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- 10) An approved operation, maintenance and replacement revenue system in accordance with Section 662.910 (Operation, Maintenance and Replacement Revenue System);
 - 11) An enacted authorized loan security and approved dedicated source of revenue in accordance with Section 662.930 (Dedicated Source of Revenue);
 - 12) The construction drawings and specifications, suitable for bidding purposes;
 - 13) A construction permit application and permit or "authorization to construct" from the Agency, pursuant to the provisions of Sections 14 through 17 or Sections 39 and 40 of the Environmental Protection Act [415 ILCS 5/14 through 17, 39 and 40], whichever is applicable;
 - 14) A project completion schedule;
 - 15) An executed contract for design and construction related work in accordance with Section 662.630 (Contracts for Personal and Professional Services);
 - 16) A compliance report (Title VI, Civil Rights Act of 1964 as amended (P.L. 88-352));
 - 17) An enacted ordinance authorizing the bonds, notes or other evidence of indebtedness to be delivered to the Agency; and
 - 18) A legal opinion from the loan recipient's legal counsel with respect to the validity and enforceability of the loan recipient's obligations and the absence of conflicts with other agreements, bonds or ordinances.
- b) In addition to the items identified in subsection (a) above, the Agency must have received the following items before it will issue the actual Loan Agreement:
- 1) A copy of the bid advertisement(s);
 - 2) Any addenda issued by the loan applicant, if applicable;
 - 3) A certification of publication;
 - 4) The bidder's 5% bid bond or cashier's check;
 - 5) The low bidder's certificate of nonsegregated facilities;
 - 6) A summary of the evidence that the contractor and engineer have met MBE/WBE requirements;
 - 7) The submittal of bid tabulations;
 - 8) A letter from the engineering firm to the applicant containing the consultant's analysis of bids and the engineer's recommendations for the award of the bids;
 - 9) A copy of the successful bid proposals;
 - 10) The notice of the applicant's intent to award; and
 - 11) A certification from the prime contractor and engineer that they have not or will not use the services of anyone who has been debarred or suspended under federal Executive Order 12549 for construction work. This certification is also required for all subcontracts over \$25,000.

Section 662.440 Fixed Loan Rate

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EMERGENCY

The fixed loan rate is comprised of an interest rate and a loan support rate. The fixed loan rate charged for a public water supply facilities loan shall be a simple annual rate at one-half the market interest rate, but not less than 2.50 percent.

**Section 662.450 Restrictions on Refinancing
EMERGENCY**

- a) No project cost incurred prior to the execution of the loan agreement shall be eligible for loan assistance except:
 - 1) Design costs set forth in Section 662.460 (Limitation on Design Cost) and bidding costs related to eligible construction contracts; and
 - 2) Project costs where the local obligations were incurred and construction was initiated after the effective date of S.B. 815 of the 90th General Assembly to eliminate a health hazard as defined in Part 663.
- b) Notwithstanding subsection (a)(2) above, no costs incurred under a construction contract awarded more than 90 days after the effective date of this Part 662 shall be eligible for loan refinancing unless the Agency has granted written approval prior to the contract award.

**Section 662.460 Limitation on Design Cost
EMERGENCY**

Allowable costs for design of the loan project will be limited to the actual cost incurred for design up to a maximum percentage of the allowable as bid construction cost.

- a) For allowable as bid construction costs of \$500,000 or less, the design will be funded up to 15 percent;
- b) For allowable as bid construction costs of \$500,001 to \$2,000,000, the design will be funded up to 12 percent;
- c) For allowable as bid construction costs of \$2,000,001 to \$5,000,000, the design will be funded up to 10 percent;
- d) For allowable as bid construction costs of \$5,000,001 to \$10,000,000, the design will be funded up to 8 percent; and
- e) For allowable as bid construction costs of more than \$10,000,000, the design will be funded up to 7 percent.

**Section 662.470 Limitation on Loan Amount
EMERGENCY**

The annual loan amount available to a loan recipient cannot exceed the lesser of \$10 million or 25% of monies available for loans, unless the amount required for projects with approvable loan applications is less than the available funds for that fiscal year.

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SUBPART E: PROJECT PLANNING REQUIREMENTS FOR LOAN PROJECTS

**Section 662.510 Loan Applicant's Responsibilities During Project Planning
EMERGENCY**

a) The loan applicant shall:

- 1) Undertake and complete project planning, which shall consist of plans and studies that are directly related to the construction of public water supply facilities, to maintain compliance with State and federal requirements as specified in 35 Ill. Adm. Code Subtitle F and the federal Safe Drinking Water Act;
 - 2) Demonstrate to the Agency through its plans and studies the need for the facilities for which loan assistance is being requested; and
 - 3) Demonstrate by a systematic evaluation of feasible alternatives, that the proposed facilities represent the cost-effective means of meeting applicable drinking water standards and goals, recognizing environmental and social conditions as set forth below.
- b) If any information required to be furnished as part of a project plan has been developed separately, it shall be furnished and incorporated by reference into the project plan. Planning previously or collaterally accomplished under local, state or federal programs may be utilized to the extent applicable.
 - c) The project plan shall be submitted to the Agency for approval. Where applicable, the applicant shall also submit drafts of any inter-governmental agreements or demonstrations of legal authority necessary to plan implementation.
 - d) The project plan may include more than one construction project and may provide the basis for several subsequent projects. The Agency shall review any project plan that has previously served as the basis for a loan, to determine if changes have occurred that require amendment of the plan for the subsequent project. If substantial changes have occurred that warrant revision or amendment of the plan as specified in Section 662.520, the loan applicant shall revise or amend and resubmit it for Agency approval in accordance with Section 662.520(a) and (b).
 - e) A project plan shall include the following elements in sufficient detail to, at minimum, comply with all applicable construction permit supporting data requirements of 35 Ill. Adm. Code Part 652.104:
 - 1) A complete description of the public water supply system of which the proposed project is a part, identification of any existing violations of federal or state public water supply regulations, and identification of the needs to be addressed by the proposed project.
 - 2) A discussion of the technical, financial, and managerial considerations that form the basis for the applicant's selection of the cost-effective project from the range of alternatives

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available and considered. When appropriate to the project scope, the following issues must be addressed:

- A) The relationship of the nature, size and capacity of each alternative to the needs to be served, including reserve capacity;
 - B) A discussion of the operational requirements of each alternative and provisions for disposal of waste by-products in accordance with state requirements;
 - C) An assessment of the capability of each alternative to maintain compliance with drinking water standards;
 - D) An inventory of the relative environmental impacts of each alternative and a discussion of the measures that would be required during design and construction to mitigate or minimize negative environmental impacts;
 - E) Adequate basis of design information for each alternative to confirm the reasonability of cost estimates;
 - F) A comparison of costs for each alternative, including both capital and operational costs over the design life of the facilities.
- 3) A detailed description of the alternative selected for loan assistance, including preliminary engineering data, complete cost estimates for design and building, and a projected schedule for completion. The engineering data shall include, to the extent appropriate, flow diagrams, unit process descriptions, detention times, flow rates, unit capacities, etc. sufficient to demonstrate the project proposed will be designed in accordance with 35 Ill. Adm. Code Parts 651-654.
 - 4) Any required comments or approvals from relevant federal, state, interstate, regional or local agencies, including at minimum comments from the Illinois Historic Preservation Agency and the State Clearinghouse.
 - 5) An implementation plan for the proposed recommendations including necessary financial arrangements for operating the facility and repayment of the proposed loan amount as well as the impact of these costs on the system users.

Section 662.520 State Environmental Review EMERGENCY

- a) Prior to making a final determination on the acceptability of any project plan, the Agency shall undertake an environmental review. The Agency may categorically exclude certain classes of projects from environmental review when, by virtue of their limited scope, the projects have no potential for negative environmental impacts.
- b) The Agency shall not begin its environmental review until it has determined that the project plan conforms to the requirements of Section 662.510 (Loan Applicant's Responsibilities During Project Planning), and that, based on the information available, all

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- reasonable measures have been taken in the planning to avoid and mitigate negative environmental impacts.
- c) The scope of the Agency's environmental review shall include, but not be limited to, an assessment of the impacts of both the loan funded project and the overall planning on rare and endangered species, historic and cultural resources, prime agricultural land, air and water quality, recreational areas, wetlands, floodplains and other sensitive environmental areas. The review shall also assess the direct and indirect impacts of construction on the loan applicant.
 - d) For all projects requiring an environmental review, the Agency will assess the environmental impacts of the proposed project and prepare a written Preliminary Environmental Impacts Determination ("PEID"). The public will be given an opportunity to comment on the project plan and the Agency's environmental impacts assessment.
 - e) The PEID shall be mailed to the loan applicant and other interested parties, inviting public comment. Within 60 days of receipt of the Agency's preliminary determination, the loan applicant shall hold a public hearing on the plan and the Agency's PEID for the purpose of obtaining public comment. The loan applicant shall allow an additional 15 days from the date of the public hearing for the submission of public written comments.
 - f) The time and place of the public hearing shall be conspicuously and adequately announced at least 10 days before the hearing. In addition, the Agency's PEID document shall be displayed at a convenient local site sufficiently prior to the hearing to obtain a level of public participation appropriate to the scope and impacts of the proposed project.
 - g) The loan applicant shall provide written notice of the public hearing to interested local, state and federal agencies, state and regional clearinghouses, citizen groups and local public officials.
 - h) The loan applicant shall provide the Agency with an accurate summary of all public comments received, together with any proposed amendments to the plan made in response to these comments.
 - i) Upon receipt of this public hearing summary and after the expiration of the 15 day written comment period, the Agency shall take the following action:
 - 1) An unconditional approval of the plan (original or as amended); or
 - 2) A conditional approval of the plan with special conditions; or
 - 3) A disapproval of the plan based on evidence of significant negative environmental impacts for which appropriate mitigative measures have not been identified; or
 - 4) A determination of the need for an Environmental Impact Statement (EIS) under the National Environmental Policy Act (42 U.S.C. 4332). The Agency may change its disapproval to approval or conditional approval based on the recommendations of the EIS.
 - j) For projects categorically excluded from the environmental review process, the Agency shall provide to the applicant a Notice of Intent

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to Issue a Categorical Exclusion. The applicant shall publish the Notice in a newspaper of local record, and allow 15 days for public comment. If no valid objection is raised to the Categorical Exclusion, the Agency shall issue an unconditional approval of the project plan. Should valid concerns be raised over potential environmental impacts, the Agency shall proceed with an environmental review under this Section or issue a conditional approval where the applicant incorporates mitigative measures that would clearly resolve the environmental concerns.

k) Agency approval of a project plan shall be valid for purposes of loan funding for a period of five years, after which time the plan must be updated and resubmitted to the Agency for review and approval. The Agency shall prepare a revised environmental review and provide an opportunity for public comment.

l) At any time within five years from the date of project plan approval, the Agency may rescind its approval and require the planning to be amended, if there are changes to the scope of proposed construction or significant alterations to planning area conditions or underlying assumptions that might alter the previous conclusions regarding environmental impacts or cost-effectiveness. For projects where the amended planning would result in substantial changes in environmental or economic impacts, the Agency may require public comment prior to granting approval of the amended plan.

m) Additions to the project scope or changes to the location of proposed construction activity shall require an amendment to an approved project plan. Where the Agency determines that the proposed changes will not alter the previous environmental impacts findings, it will approve planning amendments by letter. In other cases, additional environmental review and public comment may be required.

n) Agency project planning determinations made in accordance with subsection (i) above shall be subject to the provisions of the Illinois Administrative Procedure Act [5 ILCS 100].

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section 662.610 Requirements for Subagreements
EMERGENCY

The following procedures shall apply to subagreements:

- a) Local Preference Local laws, ordinances, regulations or procedures that are designed to operate to give local or in-state bidders or proposers preference over other bidders or proposers shall not be used in evaluating bids or proposals for subagreements under PWSLP loan.
- b) Profits Only fair and reasonable profits may be earned by contractors in subagreements under PWSLP loans. Profit included in a formally advertised, competitively bid, fixed price construction contract awarded pursuant to Section 662.620 (Construction Contracts of Loan Recipient) is presumed to be reasonable. If a subagreement is not

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competitively bid, the loan recipient shall submit to the Agency its basis for determination of reasonable profit.

c) Loan Recipient Responsibility The loan recipient shall be responsible for the administration and successful accomplishment of the project for which PWSLP loan assistance is provided. The loan recipient shall be responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements, including, but not limited to, issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other procurement matters. With the prior written consent of the Agency, these functions may be performed for the loan recipient by an individual or firm retained for that purpose. Such an individual or firm shall be deemed the loan recipient's agent, and shall be subject to all the provisions of the loan agreement, including this Part 662, that apply to the loan recipient.

d) Privy of Contract Neither the Agency nor the State of Illinois shall be a party to any subagreement (including contracts or subcontracts), or to any solicitation or request for proposals thereunder.

e) Subagreements shall:

- 1) Be directly related to the accomplishment of the loan recipient's approved work program;
- 2) Be in the form of an executed written agreement (except for small purchases of \$25,000 or less);
- 3) Be for monetary or in-kind consideration; and
- 4) Not be in the nature of a grant or gift.

f) Documentation

- 1) Procurement records and files for purchases in excess of \$25,000 shall include the following:

- A) The basis for contractor selection;
- B) The justification for lack of competition if competition appropriate to the type of project work to be performed is required but not obtained; and
- C) The basis for award cost or price.

- 2) Procurement documentation as described in Section 662.610(f)(1) above shall be retained by the loan recipient or contractor(s) for the period required by Section 662.820 (Audit and Records).

g) Subagreements shall only be awarded to persons or organizations that:

- 1) Have adequate financial resources for performance;
- 2) Have the necessary experience, organization, technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain these requirements;
- 3) Have the staffing sufficient to comply with the proposed or required completion schedule for the project;
- 4) Have a satisfactory record of integrity, judgment and performance;
- 5) Have an adequate financial management system and audit procedure which is consistent with generally accepted accounting standards

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in accordance with the American Institute of Certified Public Accountants Professional Standards;

- 6) Maintain a standard of procurement in accordance with this Part 662;
 - 7) Maintain a property management system which provides adequate procedures for the acquisition, maintenance, safeguarding and disposition of all property; and
 - 8) Conform to the civil rights, equal employment opportunity and labor law requirements of this Part 662.
- h) Fraud and other unlawful or corrupt practices
- 1) The obtaining and administration of loans from the PWSLP, and of subagreements awarded by loan recipients shall be free from bribery, graft, kickbacks, and other corrupt practices. The loan recipient shall bear the primary responsibility for prevention and detection of such conduct and for cooperation with appropriate authorities in the prosecution of any such conduct.
 - 2) The loan recipient shall effectively pursue available state or local legal and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of illegality or corrupt practices that are brought to its attention. The loan recipient shall advise the Agency immediately when any such allegation or evidence comes to its attention, and shall periodically advise the Agency of the status and ultimate disposition of any matter.
 - i) Negotiation of Subagreements All subagreements shall be awarded by formal advertising unless the loan recipient determines, and the Agency concurs, that it is impracticable and infeasible to use formal advertising. Negotiated contracts must be competitively awarded to the maximum practicable extent. Procurements may be negotiated by the loan recipient, if approved by the Agency, for the following reasons:
 - 1) Public exigency, as evidenced by governmental declaration, will not permit the delay incident to advertising (e.g., an emergency procurement); or
 - 2) The aggregate amount involved does not exceed \$4,000; or
 - 3) The materials or services to be procured are available from only one person or firm; or
 - 4) The procurement is for personal or professional services, or for any services to be rendered by an educational institution; or
 - 5) No responsive, responsible bids at acceptable price levels have been received after formal advertising; or
 - 6) The procurement is for material or services where the prices are established by law; for technical items or equipment requiring standardization and interchangeability of parts with existing equipment; for experimental, developmental or research work; for highly perishable materials; resale; or for technical or specialized supplies requiring substantial initial investment for manufacture.

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Section 662.620 Construction Contracts
EMERGENCY

The following procedures shall apply to construction contracts (subagreements) awarded by loan recipients for the construction phase only. They shall not apply to personal and professional service contracts.

- a) Contract documents shall include bid, performance and payment bonds.
- b) Each contract shall be awarded after formal advertising, unless negotiation is permitted under Section 662.610(i) (Negotiation of Subagreements). Formal advertising shall be in accordance with the following:

- 1) Adequate bidding documents Bidding documents (invitations for bid) shall be made available by the loan recipient and shall be furnished upon request in a timely manner. A complete set of bidding documents shall be maintained by the loan recipient and shall be available for inspection and copying by any party. The bidding documents shall include:
 - A) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule. (Drawings and specifications may be made available for inspection instead of being furnished.);
 - B) The terms and conditions of the contract to be awarded;
 - C) A clear explanation of the method of bidding, the method of evaluation of bid prices, and the basis and method for award of the contract;

- D) The statement that any contract awarded in response to the bid is expected to be funded in part by a loan from the PWSLP, and that neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to this bidding or any resulting contract;
- E) Responsibility requirements or criteria that will be used in evaluating bidders, provided that an experience requirement or performance bond may not be used unless adequately justified by the loan recipient;
- F) A copy of subsections (b)(1)(G) and (H) below shall be included in the proposal form to be used by bidders and shall constitute a representation and certification to be considered as a part of their bid;

- G) By submission of the bid each bidder certifies, and in the case of a joint bid each party thereto certifies as to his own organization, that in connection with the bid:
 - i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to the prices with any other bidder or with any competitor;
 - ii) Unless otherwise required by law, the prices quoted in the bid have not knowingly been, prior to opening,

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directly or indirectly disclosed to any other bidder or to any competitor; and

iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or withhold a bid for the purpose of restricting competition.

H) Each person signing the bid shall certify that:

- i) He or she is the person in the bidder's organization responsible for the decision as to the prices being bid and that he or she has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above; or
- ii) He or she is not the person in the bidder's organization responsible for the decision as to the prices being bid, but that he or she has been authorized to act as agent certifying that such persons have not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above, and as their agent shall so certify. He or she shall also certify that he or she has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above.

2) Addenda to bidding documents If the loan recipient wishes to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, it shall send written addenda to all firms who have obtained bidding documents, in time to be considered prior to the bid opening time. When appropriate, the period for submission of bids shall be extended. All addenda to the bidding documents should be submitted to the Agency for approval prior to the bid opening.

3) Award to the low, responsive, responsible bidder

A) After bids are opened, they shall be evaluated by the loan recipient in accordance with the methods and criteria set out in the bidding documents.

B) The loan recipient may reserve the right to reject all bids if it has documented sound business reasons. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the loan recipient.

C) If the award is intended to be made to a firm which did not submit the lowest bid, prior to any award, the loan recipient shall submit to the Agency a written statement, explaining why each lower bidder was deemed not responsive or not responsible.

c) Negotiations of Contract Amendments (Change Orders)

1) Loan Recipient Responsibility The loan recipient shall be

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responsible for negotiation of construction contract change orders. This function may be performed by the loan recipient directly or, if authorized, by its consulting engineer. During negotiations the loan recipient shall:

- A) Make sure that the contractor has a clear understanding of the scope and extent of work and other essential requirements;
 - B) Assure that the contractor demonstrates that he will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and
 - C) Maintain a summary of all negotiations and the engineer's independent cost estimate.
- 2) Changes in contract price or time The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with subsection (c) of this Section.
- 3) For each change order the contractor shall submit to the loan recipient for review sufficient cost and pricing data to enable the loan recipient to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.
- 4) Agency review For each change order, the loan recipient shall submit to the Agency for approval the following documentation:
- A) A description of the changed work;
 - B) The contractor's proposal itemizing the cost and time to complete the changed work;
 - C) The recipient or engineer's estimate of the cost and time to complete the changes;
 - D) Two copies of the executed change order with justification including, but not limited to, the need for the proposed work and the technical solution; and
 - E) The summary of negotiations and resolution between the engineer's independent cost estimate and the contractor's proposal.
- d) Required Construction Contract Provisions Each construction contract shall include the following provisions:

- 1) Audit; access to records:
 - A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on loan work consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of any cost submissions required under subsection (c) above, (Negotiation of Contract Amendments, Change Orders) and a copy of the cost summary submitted to the owner. The

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Illinois Auditor General, the owner, the Agency, or any of their authorized representatives shall have access to the books, records, documents, and other evidence for purposes of inspection, audit, and copying. The contractor shall provide facilities for access and inspection.

- B) For a formally advertised, competitively awarded, fixed price contract, the contractor shall include access to records as specified in subsection (d)(1)(A) above for all negotiated change orders and contract amendments in excess of \$25,000 that affect the contract price. In the case of all other prime contracts, the contractor shall agree to include access to records as specified above in all his contracts and all tier subcontracts or change orders in excess of \$25,000 that are directly related to project performance.

- C) Audits shall be consistent with generally accepted auditing standards in accordance with the American Institute of Public Accountants Professional Standards.

- D) The contractor shall agree to the disclosure of all information and reports resulting from access to records pursuant to subsection (d)(1)(A) above. Where the audit concerns the contractor, the auditing agency shall afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

- E) The records required by subsection (d)(1)(A) above shall be maintained and made available during performance of the work under the loan agreement and for three years after the date of final loan audit. In addition, records that relate to any dispute or litigation or the settlement of claims arising out of any performance, costs or items to which an audit exception has been taken, shall be maintained and made available for three years after resolution of such dispute, appeal, litigation, claim, or exception.

- F) The right of access will generally be exercised with respect to financial records under:

- i) Negotiated prime contractors;
- ii) Negotiated change orders or contract amendments in excess of \$25,000 affecting the price of any formally advertised, competitively awarded, fixed price contract; and
- iii) Subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract.

- G) The right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order

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awarded after effective price competition. In any event, the right of access shall be exercised under any type of contract or subcontract:

- i) With respect to records pertaining directly to contract performance, excluding any financial records of the contractor; and
- ii) If there is any indication that fraud, gross abuse, or corrupt practices may be involved in the award or performance of the contract or subcontract.

- 2) Covenant against contingent fees

The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the owner shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

- 3) Wage provisions

The contractor shall pay prevailing wages in accordance with the Illinois Prevailing Wage Act [820 ILCS 130/39s 1-12].

- 4) MBE/WBE Requirements

The contractor shall provide evidence, including but not limited to, a copy of the advertisement(s) and the record of negotiation that it has taken affirmative steps in accordance with federal Executive Orders 11625 and 12138 (Appendix A), to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction and services.

- 5) Debarment or Suspension Provisions

The contract shall require the successful bidder(s) to submit a certification of compliance with federal Executive Order 12549 (Appendix A) regarding debarment, suspension and other responsibility matters.

- e) Subcontracts under Construction Contracts

The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by the prime contractor shall comply with the following:

- 1) All applicable provisions of federal, state and local law;
- 2) All provisions of this Part 662 regarding fraud and other unlawful or corrupt practices;
- 3) All provisions of this Part 662 with respect to access to facilities, records and audit of records.
- 4) Subsection (d)(5) above requires a certification of compliance with federal Executive Order 12549 regarding debarment, suspension, and other responsibility matters.

- f) Contractor Bankruptcy

In the event of a contractor bankruptcy, the loan recipient shall

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notify the Agency and shall keep the Agency advised of any negotiations with the bonding company, including any proposed settlement. The Agency may participate in those negotiations and will advise the loan recipient of the impact of any proposed settlement to the loan agreement. The loan recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and re-awarding a construction contract.

Section 662.630 Contracts for Personal and Professional Services EMERGENCY

All subagreements for personal and professional services for design or construction expected to exceed \$25,000 in the aggregate, shall include the following subagreement provisions:

- a) Subagreements for personal and professional construction services shall include:
 - 1) Evidence, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with federal Executive Orders 11625 and 12138 (Appendix A), that affirmative steps have been taken to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction, and services;
 - 2) An audit and access to records clause that provides as follows:
 - A) Subsections (a)(2)(B) through (E) below shall be included in all contracts and all subcontracts directly related to project services that are in excess of \$25,000.
 - B) Books, records, documents and other evidence directly pertinent to performance of FWSLP loan work under this agreement shall be maintained consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The Agency or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.
 - C) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards.
 - D) All information and reports resulting from access to records pursuant to subsection (a)(2)(B) above shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.
 - E) Records under subsection (a)(2)(B) above shall be maintained and made available during performance of project services

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under this agreement and for three years after the final loan closing. In addition, those records that relate to any dispute pursuant to Section 662.650 (Disputes) or litigation or the settlement of claims arising out of project performance or costs or items to which an audit exception has been taken, shall be maintained and made available for three years after the resolution of the appeal, litigation, claim or exception;

- 3) A "covenant against contingent fees" clause as follows:

"The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee;" and
 - 4) A certification of compliance with federal Executive Order 12549 (Appendix A) regarding debarment, suspension and other responsibility matters;
 - 5) A description of the scope and extent of the project work;
 - 6) The schedule for performance and completion of the contract work including, where appropriate, dates for completion of significant project tasks; and
 - 7) A method of compensation.
- b) Subagreements for personal and professional design services shall include the subagreement provisions contained in subsections (a)(2) through (a)(4) above. In addition, the subagreements shall be accompanied by a statement regarding the use of small, minority and women's business during the design service phase.
- c) If, at the time of contract execution, any of the elements required in this Section cannot be defined adequately for later tasks, those tasks shall not be included in the contract at that time.

Section 662.640 Compliance with Procurement Requirements for Construction Contracts EMERGENCY

- a) Loan Recipient Responsibility The loan recipient shall be responsible for selecting the low, responsive, and responsible bidder or other contractor in accordance with applicable requirements of state, federal, and local laws and ordinances, as well as for the specific requirements of the loan agreement directly affecting procurement. The loan recipient shall also be responsible for the initial resolution of complaints based upon alleged violations. Any complaints made to the Agency concerning any alleged violation of law

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in the procurement of construction services or materials for a project involving construction work, will be referred to the loan recipient for resolution. The loan recipient shall promptly determine each complaint on its merits, and shall allow the complainant and any other party who may be adversely affected to state in writing or at a conference the basis for their views concerning the proposed procurement. The loan recipient shall promptly furnish to the complainant and to other affected parties, by certified mail, a written summary of its determination, substantiated by an engineering or legal opinion providing a justification for its determination.

b) Time Limitations Complaints should be made as early as possible during the procurement process, preferably prior to the bid opening, to avoid disruption of the procurement process. The complaint shall be mailed (certified mail, return receipt requested), or otherwise delivered, no later than five working days after the complainant becomes aware of an alleged violation. If there is no agreement between the parties within seven days following the loan applicant's response, unless all bids are rejected, the matter shall be resolved in accordance with subsection (c) below.

c) Remedies All claims, counter-claims, disputes and other matters in question between the recipient and the contractor arising out of, or relating to a subagreement or its breach shall be decided by arbitration if the parties agree, or in a court of competent jurisdiction within the State.

d) Deferral of Procurement Action If the determination of a complaint by the loan recipient is adverse to the complainant, the loan recipient shall defer issuance of its solicitation or award or notice to proceed under the contract (as appropriate) for seven days after mailing or delivery of the determination. If the determination (whether made by the loan recipient, the arbitrator or the court) is favorable to the complainant, the terms of the solicitation shall be revised or the contract shall be awarded, as appropriate, in accordance with the determination.

Section 662.650 Disputes**EMERGENCY**

a) Only the loan recipient may appeal to the Agency for its own name and benefit, under this provision with respect to its subagreements. Neither a contractor nor a subcontractor may prosecute an appeal under the disputes provision of a loan in its own name or interest.

b) Any dispute arising under this loan that is not disposed of by agreement shall be decided by the Director or his or her authorized representative, who shall render a decision in writing and mail or otherwise furnish it to the loan recipient. The decision of the Director shall be in accordance with this Part 662 and shall be final and conclusive.

c) The disputes clause shall not preclude the Director from considering

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questions of law in any decision.

Section 662.660 Indemnity**EMERGENCY**

The loan recipient shall assume the entire risk, responsibility and liability for all loss or damage to property owned by the loan recipient, the Agency or by third persons, and for any injury to or death of any persons (including employees of the loan recipient) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of the PWSLP loan. The loan recipient shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of Section 1 of the Construction Contract Indemnification for Negligence Act [740 ILCS 35]. The loan recipient shall require that all its contractors and subcontractors agree in writing that they will look solely to the loan recipient for performance of the contract or satisfaction of all claims arising thereunder.

Section 662.670 Covenant Against Contingent Fees**EMERGENCY**

The loan recipient shall warrant that no person or agency has been employed or retained to solicit or secure a PWSLP loan upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the Agency shall have the right to annul the loan in accordance with Section 662.310 or to deduct from the loan, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee.

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

Section 662.710 Construction Initiation**EMERGENCY**

Upon approval by the Agency of the loan applicant's financial assistance application in accordance with Section 662.430 (Financial Assistance Application and Approval), and subject to the availability of funds, the Agency will issue the loan agreement and authorize the initiation of construction.

Section 662.720 Project Changes**EMERGENCY**

a) Prior approval of the Agency is required for any project change that may:

- 1) Increase the amount of loan funds needed to complete the project;

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- 2) Alter the design or scope of the project;
 - 3) Extend any contract or loan completion date for the project;
 - 4) Alter the location, size, capacity or quality of any major item of equipment; or
 - 5) Alter the scope of the project by changing the methodologies or personnel to be used as agreed to at the time the loan was issued.
- b) The Agency will approve project changes that it determines are cost-effective and within the overall scope of the loan project based on approved project planning.
- c) The loan recipient shall promptly notify the Agency, in writing, of all project changes. Failure to give timely notice of proposed project changes, or action by the loan recipient that is not consistent with the Agency's determination on such changes, may result in:
- 1) Disallowance of loan participation for costs incurred that are attributable to the change; and
 - 2) Termination of the loan.

Section 662.730 Construction Engineering**EMERGENCY**

The loan recipient shall provide construction engineering and project monitoring to assure that the construction substantially conforms with the approved plans and specifications.

Section 662.740 Operation and Maintenance of the Project**EMERGENCY**

In order for the Agency to approve the final inspection for the project, the loan recipient must certify that it has a certified operator and that it has provided the following training and operation and maintenance documents:

- a) Training pertaining to the proper operation and maintenance of the equipment and process units included in the project.
 - b) An operation and maintenance reference library that includes, but is not limited to, the following:
 - 1) Manufacturer's literature, shop drawings and warranties as well as a maintenance schedule for the equipment and process units included in the project;
 - 2) The plans of record with valve indices for the equipment and process units included in the project; and
 - 3) A maintenance schedule for the equipment and process units included in the project.
- c) Training pertaining to the general operation of public water supply facilities or distribution systems, consisting of an operator self-study course such as "Water Treatment Plant Operation," Volumes I and II, or "Small Water System Operation and Maintenance," or "Water Distribution System Operation and Maintenance," California State

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University, Sacramento or "Water Sources," Part I or "Water Treatment" Part II, or "Water Transmission and Distribution," Part III, or "Water Quality," Part IV, or "Basic Science Concepts and Applications," Part V, American Water Works Association, Denver, Colorado.

Section 662.750 Final Inspection**EMERGENCY**

The loan recipient shall notify the Agency in writing within 30 days of the completion of project construction and shall submit the final change order, along with the contractor's final costs to the Agency. The plans of record shall be forwarded to the appropriate Agency regional office. The Agency shall schedule the final inspection within 60 days of the receipt of the notice of completion, provided that all necessary change orders have been submitted and approved.

SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING AND RECORDS**Section 662.810 Access****EMERGENCY**

- a) The Agency and its designated representatives shall have access, during normal business hours and at any other time during which work is being performed, to the premises where any portion of the work for which the PWSLP loan was provided is being performed. After final loan closing, Agency personnel or any authorized Agency representative shall have access to the project records as defined in Section 662.820 (Audit and Records) below and to the project site during normal business hours, to the full extent of the loan recipient's right to access.
- b) Every contract entered into by the loan recipient for construction work, and every subagreement, shall provide Agency representatives with access to the work. The contractor or subcontractor shall provide facilities for access and inspection. The contract or subagreement shall also provide that the Agency or any authorized representative shall have access to any books, documents, papers and records that are pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions.
- c) Failure by the loan recipient or any of its contractors or subcontractors to provide access after ten days written notice from the Agency, shall be cause for termination of the loan pursuant to Section 662.330 (Termination), and refund to the State of Illinois for deposit into the PWSLP any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section shall repay any loan funds previously spent.

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**Section 662.820 Audit and Records
EMERGENCY**

- a) The loan recipient shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices consistent with generally accepted government accounting standards in accordance with the American Institute of Public Accountants Professional Standards.
- b) The following shall constitute "records" for purposes of this Section:
 - 1) The receipt and disposition by the loan recipient of all assistance received for the project, including both State assistance and any matching share or cost sharing; and
 - 2) The costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the loan has been provided.
- c) The loan recipient's facilities, or any facilities engaged in the performance of the PWSLP loan project, and the loan recipient's records shall be subject to inspection and audit by the Agency or its authorized representative, at the times specified in Section 662.810 (Access).
- d) The loan recipient shall preserve and make its records available to the Agency or its authorized representative for the following periods:
 - 1) For all costs associated with design and construction, for 3 years after final loan closing;
 - 2) For all other accounting records concerning the loan, for 3 years from the date of the transaction; and
 - 3) For any longer period required by law or by subsections (d) and (e) below.
- e) If the loan is completely or partially terminated, the records relating to the terminated work shall be preserved and made available for 3 years after any resulting final termination settlement.
- f) Records that relate to appeals under the "Disputes" clause, litigation or the settlement of claims arising out of the performance of the PWSLP loan project, or to project costs and expenses to which exception has been taken by the Agency or its authorized representatives, shall be retained until the appeals, litigation, claims, or exceptions have been disposed.
- g) Failure of the loan recipient or its contractors or subcontractors to make records available to the Agency as required by Section 662.810 (Access) after 10 days written notice, shall be cause for termination of the loan pursuant to Section 662.330 (Termination) and for refund to the State of Illinois for deposit into the PWSLP any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section shall repay any loan funds previously spent.

**Section 662.830 Single Audit Act
EMERGENCY**

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The loan recipient shall comply with the provisions of the Single Audit Act of 1996 (31 U.S.C. 7501).

SUBPART I: REQUIREMENTS FOR OPERATION, MAINTENANCE AND REPLACEMENT REVENUE SYSTEM, FINANCIAL CAPABILITY, DEDICATED SOURCE OF REVENUE AND FLOODPLAIN INSURANCE

**Section 662.910 Operation, Maintenance and Replacement Revenue System
EMERGENCY**

- a) In order for the loan agreement to be issued, the Agency must have approved the loan applicant's proposed source of revenue for operation, maintenance, and replacement (O,M&R) costs. The proposed source of revenue must be enacted and enforceable, if appropriate, before the first loan disbursement can take place.
- b) The Agency shall approve the O,M&R revenue system in accordance with the following criteria:
 - 1) For the first year of operation of new facilities, operation, maintenance and replacement costs shall be based upon past experience or some other rational method that can be demonstrated to be applicable.
 - 2) The loan recipient shall review annually and revise periodically the proposed revenue source to reflect actual water works operation, maintenance, and replacement costs. The Agency may request a report on the status of the projected costs, actual costs, revenue generated and fund balances at any time.
 - 3) The proposed revenue source shall generate sufficient revenue to offset the cost of all water works operation, maintenance and replacement required to be provided by the loan recipient.
 - 4) If the project is a regional public water supply facility that distributes water to other public water supplies, appropriate municipal ordinances, intergovernmental agreements or other appropriate authorizations must be submitted.
- c) Upon approval of a loan recipient's proposed O,M&R revenue source, the implementation and maintenance of the source shall become a condition of the loan subject to Section 662.310 (Noncompliance with Loan Procedures).
- d) The loan recipient shall maintain records necessary to document compliance, in accordance with the Local Records Act [50 ILCS 205].
- e) The Agency or its authorized representative shall have access to all books, documents, papers, and records of the loan recipient for the purpose of making audit, examination, excerpts, and transcriptions in order to ensure compliance with subsection (b) above.

**Section 662.920 Financial Capability
EMERGENCY**

- a) The loan applicant shall demonstrate to the Agency that it has the

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necessary legal, financial, managerial and institutional capability to:

- 1) construct, operate and maintain the project for the life of the public water supply facilities;
 - 2) to retire the loan, including the execution of any necessary intergovernmental agreements and the enactment of any local legislation necessary to recover adequate capital costs to repay the loan; and
 - 3) to meet any covenants and requirements in the loan agreement.
- b) To demonstrate financial, managerial and institutional capability, the applicant shall, at a minimum, show that:
- 1) It is empowered under law to own, operate and maintain a public water supply facility;
 - 2) It has the necessary easements, titles, permits and intergovernmental agreements for loan project implementation, as identified in the project plan; and
 - 3) It has or will have the necessary qualified personnel to operate and maintain the facility.

c) The financial capability demonstration shall be submitted to the Agency for approval and shall contain detailed project costs, existing and proposed operation, maintenance and replacement costs, existing and proposed local capital costs and historical information over the past five years consisting of audited annual financial statements, bond ratings, number of users and tax rate levies.

d) The Agency may suggest mitigative measures to improve the loan applicant's financial capability to undertake the project, including but not limited to, acquisition of grant funding, reduction of project costs, additional or different sources of dedicated revenues, efforts to reduce the number of delinquent users and changes to existing financial practices that may threaten generation of adequate revenues. The Agency may require a loan term of less than the 20 year maximum. In evaluating the appropriateness of alternative loan terms, the Agency shall consider such factors as the scope of the proposed project, the impacts of alternative loan terms on user fees, and the overall cost of the project.

Section 662.930 Dedicated Source of Revenue

EMERGENCY

a) A source of revenue shall be dedicated and pledged to make the loan repayments. Prior to loan approval, the Agency shall review the proposed dedicated and pledged revenue source to assure that it will generate revenues adequate to make the loan repayments and will provide a continuing source of revenue adequate to make loan repayments for the term of the loan. If the source of revenue is pledged in a subordinate position to a revenue bond ordinance, the covenants regarding coverage and reserve for the revenue source shall be identical to those in the revenue bond ordinance.

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b) The necessary legislative enactments to dedicate and pledge the source of revenue must be in place before the Agency can make the first loan disbursement.

c) The loan recipient shall establish an account, maintained by a bank or trust, that is restricted to use for loan repayment, in which to deposit the dedicated revenues prior to the time of first loan disbursement.

d) The loan recipient shall, for the term of the loan, review and adjust the dedicated source of revenue as necessary to provide adequate funds for the repayment of the loan. The recipient shall timely notify and submit to the Agency for approval, all proposed changes to the dedicated source of revenue.

e) The loan recipient shall submit to the Agency, upon request, a statement on the status of the restricted account after initiation of the loan repayment period that contains the status of the dedicated revenue account, including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's approval will be based on, but not limited to, ensuring that the revised dedicated source of revenue is legally authorized, generates sufficient revenue and is otherwise in accordance with this Part 662.

f) In the event that the actual revenues fall short of the amount required to retire the loan, the Agency will require the loan recipient to re-examine the dedicated revenue source and restructure it as necessary.

Section 662.940 Floodplain Insurance

EMERGENCY

a) If the loan project includes insurable structures that will be located within a designated floodplain area as defined in the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127), the loan recipient shall furnish written evidence that it is participating in the National Flood Insurance Program or that the construction areas have received official exclusion from the flood insurance requirements by the Federal Emergency Management Agency.

b) The loan recipient (or the construction contractor, as appropriate) shall acquire any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, and maintain the insurance for the entire useful life of the insurable structures.

c) The amount of insurance required shall be the lesser of the total project cost, excluding facilities that are uninsurable under the National Flood Insurance Program, or the maximum limit of coverage made available to the loan recipient under the National Flood Insurance Act of 1968.

d) The required insurance premium for the period of construction shall be an allowable project cost under Section 662.1010.

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SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

Section 662.1010 Determination of Allowable Costs**EMERGENCY**

The loan recipient shall be paid, upon request, in accordance with Section 662.1030 (Disbursement of Loan Funds), for all costs that are within the scope of the approved project, not to exceed the total amount of the loan, and that are determined to be allowable in accordance with the following criteria:

- a) Allowable Project Costs All reasonable and necessary costs directly attributable to the design and construction of an eligible, loan assisted public water supply project, that are not excluded from loan funding by legislation or non-waivable regulations. Categories of necessary costs include, but are not limited to, the following:
 - 1) The direct purchase of materials, equipment and personal services specifically necessary for the completion of a loan funded project;
 - 2) Professional and consultant services contracts necessary for design, bidding, and construction of a loan funded project, except as elsewhere limited by this Part 662;
 - 3) Costs under approved construction contracts; and
 - 4) Costs for premiums for required flood insurance during the project construction period.
- b) Ineligible Costs Categories of costs that are ineligible for loan assistance, and are not subject to the "reasonable and necessary" test of allowability include, but are not limited to, the following:
 - 1) Costs for preparing a project planning document;
 - 2) Costs outside the scope of the approved project plan;
 - 3) Site acquisition, including easement compensation;
 - 4) Construction of any facilities that do not clearly fall within the definition of a public water supply facility as contained in the federal Safe Drinking Water Act;
 - 5) Projects whose main purpose is fire protection or servicing future growth.
- c) Disputes Concerning Allowable Costs The loan recipient shall seek to resolve any questions relating to cost allowability or allocation at the earliest opportunity. Final determinations by the Director concerning the allowability of costs shall be conclusive.

Section 662.1020 Use of Loan Funds and Payment of Unallowable Costs**EMERGENCY**

- a) Loan funds shall be expended solely for approved allowable costs incurred in the design and construction of the project.
- b) The loan recipient shall agree to pay the unallowable costs associated with the project, as well as all allowable costs that exceed the amount of the loan, and shall construct the project, or cause it to be constructed to final completion in accordance with the plans and

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SPECIFICATIONS AND ON THE SCHEDULE APPROVED BY THE AGENCY.

- c) The loan recipient shall commit itself to complete the construction of the operable public water supply facilities.

Section 662.1030 Disbursement of Loan Funds**EMERGENCY**

- a) Disbursements are subject to the appropriation of funds by the General Assembly and the availability of cash deposited into the PWSLP from drawdowns from the U.S. EPA Automated Clearing House, state matching funds, repayments of existing loans, interest earnings on money in the PWSLP, and money deposited into the PWSLP from other sources.
- b) Disbursements shall be made as follows:
 - 1) After the receipt of a fully executed loan agreement, disbursement requests must be sent directly to the Agency. Actual disbursements shall be processed in accordance with the loan agreement.
 - 2) Disbursements will be processed based on costs incurred that are due and payable as evidenced by invoices. The Agency may withhold any disbursement for a violation of the loan agreement conditions.
- c) The loan recipient shall make prompt payment to the contractor.
- d) The State share of any refunds, rebates, credits or other amounts (including any interest) accruing to or received by the loan recipient with respect to the project that are properly allocable to costs for which loan funds have been disbursed must be paid, minus any reasonable expenses incurred in securing these funds, to the State of Illinois for deposit in the PWSLP.
- e) Before the final principal amount of the loan can be established:
 - 1) The Agency must conduct a final inspection and a project review to insure that all applicable loan conditions have been satisfied; and
 - 2) The loan recipient must submit to the Agency a final waiver from the contractor and a Certification of Payment that all bills have been paid.
- f) The loan recipient shall also submit a release, discharging the State of Illinois, its officers, agents and employees from all liabilities, obligations and claims arising out of the project work or under the loan, subject only to such exceptions which may be specified in the release.
- g) Any use of loan funds at variance with this Part 662 shall result in repayment of those loan funds to the State of Illinois for deposit into the PWSLP.

SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

Section 662.1110 Loan Repayment to the Agency

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Loan repayment to the Agency shall be in accordance with the loan repayment schedule contained in the loan agreement.

- a) Loan repayments shall commence not later than 6 months after the initiation of the loan repayment period and shall be due semi-annually unless the Agency determines that the dedicated source of revenue justifies an alternative repayment plan.
- b) After the initiation of the loan repayment period date in the loan agreement, the Agency shall set a principal amount and give the loan recipient an interim repayment schedule.
- c) After a final cost review of the project, the Agency shall establish the final principal amount and give the loan recipient a final repayment schedule.

Section 662.1120 Delinquent Loan Repayments**EMERGENCY**

- a) If a repayment is not made according to the repayment schedule, the loan recipient shall notify the Agency in writing within 15 days after the repayment due date. The notification shall state the reasons the repayment was not timely tendered and the circumstances under which the late repayment will be satisfied, and shall contain binding commitments to assure future repayments. After receipt of this notification, the Agency shall accept the plan or take action in accordance with subsection (b) below.
- b) If a loan recipient fails to comply with subsection (a) above, the Agency shall promptly issue a notice of delinquency to the loan recipient and require a written response within 30 days. The notice of delinquency shall require the loan recipient to revise its rates, fees and charges to meet its obligations or to take other specified actions as may be appropriate to remedy the delinquency and to assure future repayments.
- c) In the event that the loan recipient fails to timely or adequately respond to a notice of delinquency, or fails to meet any obligations pursuant to subsections (a) and (b) above, the Agency shall pursue the collection of the amounts past due, the outstanding loan balance and the costs incurred thereby, either pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210] or by any other lawful means.

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Section 662.APPENDIX A Executive Orders**Section 662.EXHIBIT A Executive Order 11625
EMERGENCY**

October 14, 1971, 36 F.R. 19967

**PRESCRIBING ADDITIONAL ARRANGEMENTS FOR DEVELOPING
AND COORDINATING A NATIONAL PROGRAM FOR
MINORITY BUSINESS ENTERPRISE**

The opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic justice for such persons and improve the functioning of our national economy.

The Office of Minority Business Enterprise, established in 1969, greatly facilitated the strengthening and expansion of our minority enterprise program. In order to take full advantage of resources and opportunities in the minority enterprise field, we now must build on this foundation. One important way of improving our efforts is by clarifying the authority of the Secretary of Commerce (a) to implement Federal policy in support of the minority business enterprise program; (b) provide additional technical and management assistance to disadvantaged businesses; (c) to assist in demonstration projects; and (d) to coordinate the participation of all Federal departments and agencies in an increased minority enterprise effort.

NOW. THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. Functions of the Secretary of Commerce.

- a) The Secretary of Commerce (hereinafter referred to as "the Secretary") shall -
 - 1) Coordinate as consistent with law the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise.
 - 2) Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies.

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- 3) Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting the establishment and successful operation of minority business enterprise.
- 4) Within constraints of law and appropriations therefor, and according to his discretion, provide financial assistance to public and private organizations so that they may render technical and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration projects conducted by public or private agencies or organizations which are designed to overcome the special problems of minority business enterprises or otherwise to further the purposes of this Order.
- b) The Secretary, as he deems necessary or appropriate to enable him to better fulfill the responsibilities vested in him by subsection (a), may -
 - 1) With the participation of other Federal departments and agencies as appropriate, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of Federal support in achieving the objectives established by this Order.
 - 2) Require a coordinated review of all proposed Federal training and technical assistance activities in direct support of the minority enterprise program to assure consistency with program goals and to avoid duplication.
 - 3) Convene, for purposes of coordination, meetings of the heads of such departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this Order.
 - 4) Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating governmental and private activities in furtherance of the objectives of this Order.
 - 5) Confer with and advise officials of State and local governments.
 - 6) Provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or

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- agencies or private organizations can be planned and implemented.
- 7) Recommend appropriate legislative or executive action.

Section 2. Advisory Council for Minority Enterprise.

- a) The Advisory Council for Minority Enterprise (hereinafter referred to as "the Council"), established by Executive Order no. 11458 of March 5, 1969, 11 shall continue in existence under the terms of this Order.
- b) The Council shall be composed of members appointed by the President from among persons, including members of minority groups and representatives from minority business enterprises, who are knowledgeable in this field and who are dedicated to the purpose of this Order. These members shall serve for a term of two years and may be reappointed.
- c) The President shall designate one of the members of the Council as the Chairman of the Council.
- d) The Council shall meet at the call of the Secretary.
- e) The Council shall be advisory to the Secretary in which capacity it shall -
 - 1) Serve as a source of knowledge and information on developments in different fields and segments of our economic and social life which affect minority business enterprise.
 - 2) Keep abreast of plans, programs, and activities in the public and private sectors which relate to minority business enterprise, and advise the Secretary on any measures to better achieve the objectives of this Order.
 - 3) Consider, and advise the Secretary, and such officials as he may designate, on problems and matters referred to the Council.
- f) For the purposes of Executive Order No. 11007 of February 26, 1962, 12 the Council shall be deemed to have been formed by the Secretary.
- g) Members of the Council shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5708) for persons in the Government service employed intermittently.
- h) The Secretary shall arrange for administrative support of the Council to the extent necessary, including use of any gifts or bequests accepted by the Department of Commerce pursuant to law.

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Section 3. Responsibilities of Other Federal Departments and Agencies.

- a) The head of each Federal department and agency, or a representative designated by him, when and in the manner so requested by the Secretary, shall furnish information, assistance, and reports to, and shall otherwise cooperate with, the Secretary in the performance of his functions hereunder.
- b) The head of each Federal department or agency shall, when so requested by the Secretary, designate his Under Secretary or such other similar official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise.
- c) The officials designated under the preceding paragraph, when so requested, shall review and report to the Secretary upon the policies and programs of the minority business enterprise program, and shall keep the Secretary informed of all proposed budgets, plans and programs of his department or agency affecting minority business enterprise.
- d) The head of each Federal department or agency, or a representative designated by him, shall, to the extent provided under regulations issued by the Secretary after consultation with the official designated in paragraph (b) above, report to the Secretary on any activity that falls within the scope of the minority business enterprise program as defined herein and in those regulations.
- e) Each Federal department or agency shall, within constraints of law and appropriations therefor, continue all current efforts to foster and promote minority business enterprises and to support the program herein set forth, and shall cooperate with the Secretary of Commerce in increasing the total Federal effort.

Section 4. Reports.

The Secretary shall, no later than 120 days after the close of each fiscal year, submit to the President a full report of his activities hereunder during the previous fiscal year. Further, the Secretary shall, from time to time, submit to the President his recommendations for legislation or other action as he deems desirable to promote the purposes of this Order. Each Federal department or agency shall report to the Secretary as hereinabove provided on a timely basis so that the Secretary may consider such reports for his report and recommendations to the President. Each Federal department or agency shall develop and implement systematic data collection processes which will provide to the Office of Minority Business Enterprise Information Center current data helpful in evaluating and promoting the efforts herein described.

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Section 5. Policies and Standards.

The Secretary may establish such policies, standards, definitions, criteria, and procedures to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps as he may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

Section 6. Definitions.

For purposes of this Order, the following definitions shall apply:

- a) "Minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, and "leut".
- b) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

Section 7. Construction.

Nothing in this Order shall be construed as subjecting any function vested in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or office exclusively, or as abrogating or restricting any such function in any manner.

Section 8. Prior Executive Order

Executive Order No. 11458 of March 5, 1969, (13) is hereby superseded.

THE WHITE HOUSE

October 13, 1971.

RICHARD NIXON

11. 15 U.S.C.A. Section 631 note.

12. 5 U.S.C.A. Section 901 note.

13. 15 U.S.C.A. Section 631 note.

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**Section 662.EXHIBIT B Executive Order 12138
EMERGENCY**

May 18, 1979, 44 F.R. 29637

**CREATING A NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY
AND PRESCRIBING ARRANGEMENTS FOR DEVELOPING, COORDINATING
AND IMPLEMENTATING A NATIONAL PROGRAM FOR WOMEN'S BUSINESS
ENTERPRISE**

In response to the findings of the Interagency Task Force on Women Business Owners and congressional findings that recognize:

- 1) the significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;
- 2) the many obstacles facing women entrepreneurs; and
- 3) the need to aid and stimulate women's business enterprise;

By the authority vested in me as President of the United States of America, in order to create a National Women's Business Enterprise Policy and to prescribe arrangements for developing, coordinating and implementing a national program for women's business enterprise, it is ordered as follows:

1-1. Responsibilities of the Federal Departments and Agencies.

1-101. Within the constraints of statutory authority and as otherwise permitted by law:

- a) Each department and agency of the Executive Branch shall take appropriate action to facilitate, preserve and strengthen women's business enterprise and to ensure full participation by women in the free enterprise system.
- b) Each department and agency shall take affirmative action in support of women's business enterprise in appropriate programs and activities including but not limited to:

- 1) management, technical, financial and procurement assistance,
- 2) business-related education, training, counseling and information dissemination, and
- 3) procurement.

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- c) Each department or agency empowered to extend Federal financial assistance to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex. For purposes of this subsection, Federal financial assistance means assistance extended by way of grant, cooperative agreement, loan or contract other than a contract of insurance or guaranty. These regulations shall prescribe sanctions for noncompliance. Unless otherwise specified by law, no agency sanctions shall be applied until the agency or department concerned has advised the appropriate person or persons of the failure to comply with its regulations and has determined that compliance cannot be secured by voluntary means.

1-102. For purposes of the Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special need for women's business enterprise, establishing incentives to promote business or business-related opportunities for women's business enterprise, collecting and disseminating information in support of women's business enterprise, and insuring to women's business enterprise knowledge of and ready access to business-related services and resources. If, in implementing this Order, an agency undertakes to use or to require compliance with numerical set-asides, or similar measures, it shall state the purpose of such measure, and the measure shall be designed on the basis of pertinent factual findings of discrimination against women's business enterprise and the need for such measure.

1-103. In carrying out their responsibilities under Section 1-1, the departments and agencies shall consult the Department of Justice, and the Department of Justice shall provide legal guidance concerning these responsibilities.

1-2. Establishment of the Interagency Committee on Women's Business Enterprise.

1-201. To help insure that the actions ordered above are carried out in an effective manner, I hereby establish the Interagency Committee on Women's Business Enterprise (hereinafter called the Committee).

1-202. The Chairperson of the Committee (hereinafter called the

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Chairperson) shall be appointed by the President. The Chairperson shall be the presiding officer of the Committee and shall have such duties as prescribed in this Order or by the Committee in its rules of procedure. The Chairperson may also represent his or her department, agency or office on the Committee.

1-203. The Committee shall be composed of the Chairperson and other members appointed by the heads of departments and agencies from among high level policy-making officials. In making these appointments, the recommendations of the Chairperson shall be taken into consideration. The following departments and agencies and such other departments and agencies as the Chairperson shall select shall be members of the Committee: the Departments of Agriculture; Commerce; Defense; Energy, Health, Education, and Welfare; Housing and Urban Development; Interior; Justice; Labor; Transportation; Treasury; the Federal Trade Commission; General Services Administration; National Science Foundation; Office of Federal Procurement Policy; and the Small Business Administration. These members shall have a vote. Nonvoting members shall include the Executive Director of the Committee and at least one but no more than three representatives from the Executive Office of the President appointed by the President.

1-204. The Committee shall meet at least quarterly at the call of the Chairperson, and at such other times as may be determined to be useful according to the rules of procedure adopted by the Committee.

1-205. The Administrator of the Small Business Administration shall provide an Executive Director and adequate staff and administrative support for the Committee. The staff shall be located in the Office of the Chief Counsel for Advocacy of the Small Business Administration, or in such other office as may be established specifically to further the policies expressed herein. Nothing in this Section prohibits the use of other properly available funds and resources in support of the Committee.

1-3. Functions of the Committee.

The Committee shall in a manner consistent with law:

1-301. Promote, coordinate and monitor the plans, programs and operations of the departments and agencies of the Executive Branch which may contribute to the establishment, preservation and strengthening of women's business enterprise. It may, as

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appropriate, develop comprehensive interagency plans and specific program goals for women's business enterprise with the cooperation of the departments and agencies.

1-302. Establish such policies, definitions, procedures and guidelines to govern the implementation, interpretation and application of this order, and generally perform such functions and take such steps as the Committee may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

1-303. Promote the mobilization of activities and resources of State and local governments, business and trade associations, private industry, colleges and universities, foundations, professional organizations, and volunteer and other groups toward the growth of women's business enterprise, and facilitate the coordination of the efforts of these groups with those of the departments and agencies.

1-304. Make an annual assessment of the progress made in the Federal Government toward assisting women's business enterprise to enter the mainstream of business ownership and to provide recommendations for future actions to the President.

1-305. Convene and consult as necessary with persons inside and outside government to develop and promote new ideas concerning the development of women's business enterprise.

1-306. Consider the findings and recommendations of government and private sector investigations and studies of the problems of women entrepreneurs, and promote further research into such problems.

1-307. Design a comprehensive and innovative plan for a joint Federal and private sector effort to develop increased numbers of new women-owned businesses and larger and more successful women-owned businesses. The plan should set specific reasonable targets which can be achieved at reasonable and identifiable costs and should provide for the measurement of progress towards these targets at the end of two and five years. Related outcomes such as income and tax revenues generated, jobs created, new products and services introduced or new domestic or foreign markets created should also be projected and measured in relation to costs wherever possible. The Committee should submit the plan to the President for approval within six months of the effective date of this Order.

1-4. Other Responsibilities of the Federal Departments and Agencies.

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1-401. The head of each department and agency shall designate a high level official to have the responsibility for the participation and cooperation of that department or agency in carrying out this Executive Order. This person may be the same person who is the department or agency's representative to the Committee.

1-402. To the extent permitted by law, each department and agency upon request by the Chairperson shall furnish information, assistance and reports and otherwise cooperate with the Chairperson and the Committee in the performance of their functions hereunder. Each department or agency shall ensure that systematic data collection processes are capable of providing the Committee current data helpful in evaluating and promoting the efforts herein described.

1-403. The officials designated under Section 1-401, when so requested, shall review the policies and programs of the women's business enterprise program, and shall keep the Chairperson informed of proposed budget, plans and programs of their departments or agencies affecting women's business enterprise.

1-404. Each Federal department or agency, within constraints of law, shall continue current efforts to foster and promote women's business enterprise and to support the program herein set forth, and shall cooperate with the Chairperson and the Committee in increasing the total Federal effort.

1-5. Reports.

1-501. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report of the activities of the Committee hereunder during the previous fiscal year. Further, the Chairperson shall, from time to time, submit to the President the Committee's recommendations for legislation or other action to promote the purposes of this Order.

1-502. Each Federal department and agency shall report to the chairperson as hereinabove provided on a timely basis so that the Chairperson and the Committee can consider such reports for the Committee report to the President.

1-6. Definitions. For the purposes of this Order, the following definitions shall apply:

1-601. "Women-owned business" means a business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to

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make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

1-602. "Women's business enterprise" means a woman-owned business or businesses or the efforts of a woman or women to establish, maintain or develop such a business or businesses.

1-603. Nothing in subsections 1-601 or 1-602 of this Section (1-6) should be construed to prohibit the use of other definitions of a woman-owned business or women's business enterprise by departments and agencies of the Executive Branch where other definitions are deemed reasonable and useful for any purpose not inconsistent with the purposes of this Order. Wherever feasible, departments and agencies should use the definition of a woman-owned business in subsection 1-601 above for monitoring performance with respect to women's business enterprise in order to assure comparability of data throughout the Federal Government.

1-7. Construction.

Nothing in this Order shall be construed as limiting the meaning or effect of any existing Executive Order.

THE WHITE HOUSE

May 18, 1979.

JIMMY CARTER

ENVIRONMENTAL PROTECTION AGENCY

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**Section 662.EXHIBIT C Executive Order 12549
EMERGENCY**

February 18, 1986, 51 F.R. 6370

DEBARMENT AND SUSPENSION

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1.

a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Section 2. To the extent permitted by law, Executive departments and agencies shall:

a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended or otherwise excluded (to the extent specified in the exclusion agreement) that

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party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

Section 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Section 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Section 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Section 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

Section 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make such recommendations as are appropriate further to curb fraud, waste, and abuse.

THE WHITE HOUSE

February 18, 1986.

RONALD REAGAN

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3) Section Numbers: Emergency Action:
148.310 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date: August 1, 1997

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed in Agency's Principal Office: August 1, 1997

8) Reason for Emergency: These emergency amendments, which provide for rate appeals, are being filed in conjunction with companion emergency amendments to Part 148 implementing two new payment adjustment programs for hospitals. These new programs, Supplemental Critical Hospital Adjustment Payments and Pediatric Outpatient Adjustment Payments, were implemented on July 1, 1997, and July 2, 1997, respectively. Immediate implementation of these amendments is necessary to enable hospital providers to contest the calculation of their payments levels or a determination of ineligibility for payment adjustments when it is believed that an error has occurred. Rate appeals for payment adjustments are essential in the effort to direct Medicaid funds to hospitals that provide critically necessary Medicaid services.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments provide a rate appeals process for hospitals concerning two new payment adjustment programs, Supplemental Critical Hospital Adjustment Payments (SCHAP) and Pediatric Outpatient Adjustment Payments, which were effective July 1, 1997, and July 2, 1997, respectively. These two programs were implemented through separate companion amendments that were published on July 18, 1997, and July 25, 1997, in the *Illinois Register*. The new payment adjustment programs direct Medicaid dollars to hospitals that provide critically necessary Medicaid services and ensure access for eligible children to highly specialized outpatient procedures. Therefore, providers of hospital services must have the availability of a rate appeals process to contest the calculation of payment levels or a determination of ineligibility for payment adjustment when it is believed that an error has occurred. The Department does not anticipate that these emergency amendments will result in any significant budgetary effect.

10) Are there any other proposed amendments pending on this Part? Yes

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Sections Proposed Action Illinois Register Citation

148.295 Amendment July 18, 1997 (21 Ill. Reg. 9401)
148.296 New Section July 18, 1997 (21 Ill. Reg. 9401)
148.297 New Section July 25, 1997 (21 Ill. Reg. 9822)

11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

12) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
Telephone: (217) 524-0081

The full text of the Emergency Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

- Section
- 148.10 Hospital Services
- 148.10 Participations
- 148.20 Definitions and Applicability
- 148.25 General Requirements
- 148.30 Special Requirements
- 148.40 Covered Hospital Services
- 148.50 Services Not Covered as Hospital Services
- 148.60 Limitation On Hospital Services
- 148.70 Organ Transplant Services Covered Under Medicaid (Repealed)
- 148.80 Organ Transplant Services
- 148.82 Heart Transplants (Repealed)
- 148.90 Liver Transplants (Repealed)
- 148.100 Bone Marrow Transplants (Repealed)
- 148.110 Disproportionate Share Hospital (DSH) Adjustments
- 148.120 Outlier Adjustments for Exceptionally Costly Stays
- 148.130 Hospital Outpatient and Clinic Services
- 148.140 Public Law 103-66 Requirements
- 148.150 Payment Methodology for County-Owned Hospitals in a County with a Population of Over Three Million
- 148.160 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.170 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.175 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.180 Copayments
- 148.190 Alternate Reimbursement Systems
- 148.200 Filing Cost Reports
- 148.210 Pre September 1, 1991 Admissions
- 148.220 Admissions Occurring on or after September 1, 1991
- 148.230 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.240 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.250 Calculation and Definitions of Inpatient Per Diem Rates
- 148.260 Determination of Alternate Cost Per Diem Rates for All Hospitals;
- 148.270 Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments

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- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payment (CHAP)
- 148.300 Payment
- 148.310 Review Procedure
- EMERGENCY
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.390 Hearings
- 148.400 Special Hospital Reporting Requirements
- AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 15 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended

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at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10142, effective August 1, 1997, for a maximum of 150 days.

Section 148.310 Review Procedure**EMERGENCY****a) Inpatient Rate Reviews**

1) Hospitals shall be notified of their inpatient rate for the rate year and shall have an opportunity to request a review of the rate for errors in calculation. Such a request must be received in writing by the Department within 30 days after the date of the Department's notice to the hospital of their rates. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

2) Hospitals reimbursed in accordance with Sections 148.250 through 148.300 and 89 Ill. Adm. Code 149 with respect to per diem add-ons for capital may request that an adjustment be made to their base year costs to reflect significant changes in costs which have been mandated in order to meet State, federal or local health and safety standards, and which have occurred since the hospital's filing of the base year cost report. The allowable Medicare/Medicaid costs must be identified from the most recent audited cost report available. These costs must be significant, i.e., on a per unit basis, they must constitute one percent or more of the total allowable Medicaid/Medicare unit costs for the same time period. Appeals for base year cost adjustments must be received, in writing, by the Department within 30 days after the date of the Department's notice to the hospital of their rates. Such request shall include a clear explanation of the cost change

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and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

- b) DSH Determination Reviews
- 1) Hospitals shall be notified of their qualification for DSH payment adjustments and shall have an opportunity to request a review of the DSH add-on for errors in calculation. Such a request must be received in writing by the Department within 30 days after the date of the Department's notice to the hospital of its disproportionate share qualification and add-on calculations. Such request shall include a clear explanation of the error and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.
 - 2) DSH determination reviews shall be limited to the following:
 - A) DSH Determination Criteria. The criteria for DSH determination shall be in accordance with Section 148.120. Review shall be limited to verification that the Department utilized criteria in accordance with State regulations.
 - B) Medicaid Inpatient Utilization Rates. Medicaid inpatient utilization rates shall be calculated pursuant to Section 1923 of the Social Security Act and as defined in Section 148.120(k)(5). Review shall be limited to verification that Medicaid inpatient utilization rates were calculated in accordance with federal and State regulations.
 - C) Low Income Utilization Rates. Low Income utilization rates shall be calculated in accordance with Section 1923 of the Social Security Act and Section 148.120(a)(2) and (d). Review shall be limited to verification that low income utilization rates were calculated in accordance with federal and State regulations.
 - D) Federally Designated Health Manpower Shortage Areas (HMSAs). Illinois hospitals located in federally designated HMSAs shall be identified in accordance with 42 CFR 5, (1989), and Section 148.120(a)(3) based upon the methodologies utilized by, and the most current information available to the Department from the Department of Health and Human Services as of June 30, 1992. Review shall be limited to hospitals in locations that have failed to obtain designation as federally designated HMSAs only when such a request for review is accompanied by documentation from the Department of Health and Human Services substantiating that the hospital was located in a federally designated HMSA as of June 30, 1992.
 - E) Excess Beds. Excess bed information shall be determined in accordance with Public Act 86-268 (Code Section 148.120(a)(3) and 77 Ill. Adm. Code 1100) based upon the methodologies utilized by, and the most current information

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available to, the Illinois Health Facilities Planning Board as of July 1, 1991. Reviews shall be limited to requests accompanied by documentation from the Illinois Health Facilities Planning Board substantiating that the information supplied to and utilized by the Department was incorrect.

- F) Medicaid Obstetrical Inpatient Utilization Rates. Medicaid obstetrical inpatient utilization rates shall be calculated in accordance with Section 148.120(a)(4), (k)(4), (k)(6) and (k)(7). Review shall be limited to verification that Medicaid obstetrical inpatient utilization rates were calculated in accordance with State regulations.

c) Outlier Adjustment Reviews

The Department shall make outlier adjustments to payment amounts in accordance with 89 Ill. Adm. Code 149.105 or Section 148.130, whichever is applicable. Hospitals shall be notified of the specific information which shall be utilized in the determination of those services qualified for an outlier adjustment and shall have an opportunity to request a review of such specific information for errors in calculation only. Such a request must be received in writing by the Department within 30 days after the date of the Department's notice to the hospital of the specific information which shall be utilized in the determination of those services qualified for an outlier adjustment. Such request shall include a clear explanation of the error and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

d) Cost Report Reviews

1) Cost reports are required from:

- A) All enrolled hospitals within the State of Illinois;
 B) All out-of-state hospitals providing 100 inpatient days of service per hospital fiscal year, to persons covered by the Illinois Medical Assistance Program; and
 C) All hospitals not located in Illinois that elect to be reimbursed under the methodology described in 89 Ill. Adm. Code 149 (the DRG PPS).

2) The completed cost statement with a copy of the hospital's Medicare cost report and audited financial statement must be submitted annually within 90 days of the close of the hospital's fiscal year. A one-time 30-day extension may be requested. Such a request for an extension shall be in writing and shall be received by the Department's Office of Health Finance prior to the end of the 90-day filing period. The Office of Health Finance shall audit the information shown on the Hospital Statement of Reimbursable Cost and Support Schedules. The audit shall be made in accordance with generally accepted auditing standards and shall include tests of the accounting and statistical records and applicable auditing procedures.

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Hospitals shall be notified of the results of the final audited cost report which may contain adjustments and revisions which may have resulted from the audited Medicare Cost Report. Hospitals shall have the opportunity to request a review of the final audited cost report. Such a request must be received in writing by the Department within 45 days after the date of the Department's notice to the hospital of the results of the finalized audit. Such request shall include all items of documentation and analysis which support the request for review. No additional data shall be accepted after the 45 day period. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

e) Trauma Center Adjustment Reviews

- 1) The Department shall make trauma care adjustments in accordance with Section 148.290(c). Hospitals shall have the right to appeal the trauma center adjustment calculations if it is believed that a technical error has been made in the calculation. Trauma level designation is obtained from the Illinois Department of Public Health as of the first day of July preceding the trauma center adjustment rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, or the licensing agency in the state in which the hospital is located, substantiating that the information supplied to and utilized by the Department was incorrect.

3) Appeals under this subsection (e) must be in writing and must be received within 30 days after the date of the Department's notice to the hospital of its qualification for trauma center adjustments and payment amounts. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

f) Medicaid High Volume Adjustment Reviews

The Department shall make Medicaid high volume adjustments in accordance with Section 148.290(d). Review shall be limited to verification that the Medicaid inpatient days were calculated in accordance with State regulations. The appeal must be in writing and must be received within 30 days after the date of the Department's notice to the hospital of its qualification for Medicaid high volume adjustments and payment adjustment amounts. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

g) Sole Community Hospital Designation Reviews

The Department shall make sole community hospital designations in

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accordance with 89 Ill. Adm. Code 149.125(b). Hospitals shall have the right to appeal the designation if it believes that a technical error has been made in the determination. The appeal must be made in writing and must be received within 30 days after notification of the designation. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review no later than 30 days after receipt of the hospital's request for review.

h) Geographic Designation Reviews

1) The Department shall make rural hospital designation in accordance with Section 148.25(g)(3). Hospitals shall have the right to appeal the designation if it is believed that a technical error has been made in the determination. The appeal must be in writing and must be received within 30 days after notification of the designation. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review no later than 30 days after receipt of the hospital's request for review.

2) The Department shall make urban hospital designations in accordance with Section 148.25(g)(4). Hospitals shall have the right to appeal the designation if it is believed that a technical error has been made in the determination. The appeal must be in writing and must be received 30 days after notification of the designation. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review no later than 30 days after receipt of the hospital's request for review.

i) Critical Hospital Adjustment Payment (CHAP) Reviews

1) The Department shall make CHAP payments **CHAPS** in accordance with Section 148.295. Hospitals shall be notified in writing of the results of the CHAP determination and calculation, and shall have the right to appeal the CHAP calculation or their ineligibility for the CHAP if it is believed that a technical error has been made in the calculation. The appeal must be in writing and must be received within 30 days after the date of the Department's notice to the hospital of its qualification for CHAP and payment adjustment amounts, or a letter of notification that the hospital does not qualify for the CHAP. Such a request shall include a clear explanation of the reason for the appeal and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

2) CHAP determination reviews shall be limited to the following:

- A) Federally Designated Health Professional Shortage Areas (HPSAs). Illinois hospitals located in federally designated

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HPSAs shall be identified in accordance with 42 CFR 5, and Section 148.295(a)(3)(B) and (b)(3) based upon the methodologies utilized by, and the most current information available to, the Department from the Department of Health and Human Services as of the last day of June preceding the CHAP rate period. Review shall be limited to hospitals in locations that have failed to obtain designation as federally designated HPSAs only when such a request for review is accompanied by documentation from the Department of Health and Human Services substantiating that the hospital was located in a federally designated HPSA as of the last day of June preceding the CHAP rate period.

B) Trauma level designation. Trauma level designation is obtained from the Illinois Department of Public Health as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, substantiating that the information supplied to and utilized by the Department was incorrect.

C) Accreditation of Rehabilitation Facilities. Accreditation of rehabilitation facilities shall be obtained from the Commission on Accreditation of Rehabilitation Facilities as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Commission, substantiating that the information supplied to and utilized by the Department was incorrect.

D) Medicaid Inpatient Utilization Rates. Medicaid inpatient utilization rates shall be calculated pursuant to Section 1923 of the Social Security Act and as defined in Section 148.120(k)(5). Review shall be limited to verification that Medicaid inpatient utilization rates were calculated in accordance with federal and State regulations.

E) Perinatal level designation. Perinatal level designation is obtained from the Illinois Department of Public Health as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, substantiating that the information supplied to and utilized by the Department was incorrect.

F) Disproportionate share eligibility. Disproportionate share eligibility shall be determined pursuant to Section 148.120. Review shall be limited to verification that the Department utilized criteria in accordance with State regulations.

G) Occupancy ratio. The occupancy ratio shall be obtained from the Illinois Department of Public Health's published report entitled "Bed Count, Average Length of Stay, Average Daily Census and Percent Occupancy for Non-Federal Hospitals in

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Illinois" as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the Illinois Department of Public Health, substantiating that the information supplied to and used by the Department was incorrect.

- H) Graduate Medical Education Programs. Graduate Medical Education program information shall be obtained from the most recently published report of the American Accreditation Council for Graduate Medical Education, the American Osteopathic Association Division of Post-doctoral Training, or the American Dental Association Joint Commission on Dental Accreditation as of the last day of June preceding the CHAP rate period. Review shall be limited to requests accompanied by documentation from the above, substantiating that the information supplied to and utilized by the Department was incorrect.

- i) Supplemental Critical Hospital Adjustment Payment (SCHAP) Reviews. The Department shall make SCHAP payments in accordance with Section 148.296. Hospitals shall be notified in writing of the results of the SCHAP determination and calculation, and shall have the right to appeal the SCHAP calculation or their ineligibility for SCHAP payments if it is believed that a technical error has been made in the calculation. The appeal must be in writing and must be received within 30 days after the date of the Department's notice to the hospital of its qualification for SCHAP and payment adjustment amounts, or a letter of notification that the hospital does not qualify for SCHAP payments. Such a request must include a clear explanation of the reason for the appeal and documentation that supports the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

- k) Pediatric Outpatient Adjustment Payments. The Department shall make Pediatric Outpatient Adjustment payments in accordance with Section 148.297. Hospitals shall be notified in writing of the results of the determination and calculation, and shall have the right to appeal the calculation or their ineligibility for payments under Section 148.297 if it is believed that a technical error has been made in the calculation. The appeal must be in writing and must be received within 30 days after the date of the Department's notice to the hospital of its qualification under Section 148.297 and payment adjustment amounts, or a letter of notification that the hospital does not qualify for such payments. Such a request must include a clear explanation of the reason for the appeal and documentation that supports the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

(Source: Emergency amendment at 21 Ill. Reg. 111.10, effective

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August 1, 1997, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO PROPOSED RULEMAKING

DEPARTMENT OF LABOR

Heading of the Part: Health and SafetyCode Citation: 56 Ill. Adm. Code 350Section Numbers: 350.280Date Originally Published in the Illinois Register: 4/4/97
21 Ill. Reg. 4140

At its meeting on July 15, 1997, the Joint Committee on Administrative Rules objected to the Department of Labor's rulemaking entitled Health and Safety (56 Ill. Adm. Code 350; 21 Ill. Reg. 4140) because it could be economically overburdensome to units of local government.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

Pursuant to section 9 of the Act, 820 ILCS 130/9 (1996), the Illinois Department of Labor has consolidated the written objections filed by the Illini Asphalt Corporation and will convene a hearing in accordance with Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 - 10-70 (1996), and the procedures stated in the Department of Labor's rules at 68 Ill. Adm. Code 680.230.

The hearing involves the Illini Asphalt Corporation's objections to the Department of Labor's determination of the classification(s) of craft(s), or type of worker(s) or mechanic(s), engaging in oil and chip maintenance on public works projects in the Counties of Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Hamilton, Massac, Perry, Pope, Pulaski, Saline, Union, and Williamson, State of Illinois, and the prevailing rate of wages for the classifications.

1) Date, Time and Location of Public Hearing:

Tuesday, September 9, 1997
10:00 A.M.

Illinois Department of Labor
One West Old State Capitol, Room 300
Springfield, Illinois 62701

2) Other Pertinent Information:

1. The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records, or witnesses necessary to substantiate their position(s) at the hearing.

2. The Administrative Law Judge shall:

a. make a final administrative decision on the objections, pursuant to 68 Ill. Adm. Code 680.230 (s), as he believes the evidence warrants; and

b. promptly file a certified copy of the final administrative decision with the Secretary of State, and serve a copy by personal service or registered mail on all parties to the proceeding.

3. The Administrative Law Judge's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 - 3/113 (1996).

3) Name and Address of Agency Contact Person:

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

Questions regarding the public hearing shall be directed to:

Scott D. Miller, Chief Legal Counsel
Illinois Department of Labor
160 North LaSalle Street, Suite C-1300
Chicago, Illinois 60601
312/793-1811

DEPARTMENT OF CORRECTIONS

JULY 1997 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Work Release Programs, 20 Ill. Adm. Code 455

1) Rulemaking:

A) Description: This rulemaking provides eligibility criteria for placement in the work release program and requirements and privileges of the program.

B) Statutory Authority: 730 ILCS 5/3-2-2

C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

D) Date agency anticipates First Notice: On or before January 1, 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, IL 62794-9277
(217) 522-2666, extension 2082

G) Related rulemakings and other pertinent information: 20 Ill. Adm. Code 530

- b) Part(s) (Heading and Code Citation): Security, 20 Ill. Adm. Code 501

1) Rulemaking:

A) Description: This rulemaking will update and further clarify security procedures, including searches for and disposition of contraband and use of force.

B) Statutory Authority: 730 ILCS 5/3-2-2

C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which

DEPARTMENT OF CORRECTIONS

JULY 1997 REGULATORY AGENDA

will be indicated on the Notice.

- D) Date agency anticipates First Notice: On or before January 1, 1998
- E) Affect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
 Donald N. Snyder, Jr., Deputy Director
 Illinois Department of Corrections
 1301 Concordia Court
 P. O. Box 19277
 Springfield, IL 62794-9277
 (217) 522-2666, extension 2082
- G) Related rulemakings and other pertinent information: None

- c) Part(s) (Heading and Code Citation): Classification and Transfers 20 Ill. Adm. Code 503

1) Rulemaking:

- A) Description: This rulemaking may be updated to provide information and criteria regarding transfers to the closed super maximum security facility at Tamms.
- B) Statutory Authority: 730 ILCS 5/3-2-2
- C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.
- D) Date agency anticipates First Notice: On or before September 1, 1997
- E) Affect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
 Donald N. Snyder, Jr., Deputy Director
 Illinois Department of Corrections
 1301 Concordia Court
 P. O. Box 19277

DEPARTMENT OF CORRECTIONS

JULY 1997 REGULATORY AGENDA

Springfield, IL 62794-9277
 (217) 522-2666, extension 2082

- G) Related rulemakings and other pertinent information: None

- d) Part(s) (Heading and Code Citation): Discipline and Grievances, 20 Ill. Adm. Code 504

1) Rulemaking:

- A) Description: This rulemaking will update disciplinary procedures in accordance with current statutes, include additional or clarified offenses, modify maximum penalties, and update grievance and confinement procedures.
- B) Statutory Authority: 730 ILCS 5/3-2-2
- C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.
- D) Date agency anticipates First Notice: On or before January 1, 1998
- E) Affect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
 Donald N. Snyder, Jr., Deputy Director
 Illinois Department of Corrections
 1301 Concordia Court
 P. O. Box 19277
 Springfield, IL 62794-9277
 (217) 522-2666, extension 2082
- G) Related rulemakings and other pertinent information: None

- e) Part(s) (Heading and Code Citation): Authorized Absences, 20 Ill. Adm. Code 530

1) Rulemaking:

- A) Description: This rulemaking will update procedures for critical illness and family funeral furloughs and for independent and

DEPARTMENT OF CORRECTIONS

JULY 1997 REGULATORY AGENDA

community correctional center leaves for persons in the work release program.

B) Statutory Authority: 730 ILCS 5/3-2-2

C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

D) Date agency anticipates First Notice: On or before January 1, 1998

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, IL 62794-9277
(217) 522-2666, extension 2082

G) Related rulemakings and other pertinent information: 20 Ill. Adm Code 455.

f) Part(s) (Heading and Code Citation): Municipal Jail and Lockup Standards, 20 Ill. Adm. Code 720

1) Rulemaking:

A) Description: This rulemaking will update and clarify standards for the operation of municipal jails and lockups.

B) Statutory Authority: 730 ILCS 5/3-2-2

C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

D) Date agency anticipates First Notice: On or before January 1, 1998

E) Affect on small businesses, small municipalities or not for

DEPARTMENT OF CORRECTIONS

JULY 1997 REGULATORY AGENDA

Profit corporations: None

F) Agency contact person for information:

Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, IL 62794-9277
(217) 522-2666, extension 2082

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 15, 1997 through July 21, 1997 and have been scheduled for review by the Committee at its August 12, 1997 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
8/28/97	Illinois Community College Board, Administration of the Illinois Public Community College Act (23 Ill Adm Code 1501)	5/16/97 21 Ill Reg 5968	8/12/97
8/30/97	Department of Nuclear Safety, Americans With Disabilities Act Grievance Procedure (4 Ill Adm Code 175)	5/23/97 21 Ill Reg 6166	8/12/97
9/3/97	Department of Public Aid, Rights and Responsibilities (89 Ill Adm Code 102)	3/28/97 21 Ill Reg 3829	8/12/97

PROCLAMATIONS

97-390
CHILD SUPPORT AWARENESS MONTH

Whereas, Illinois recognizes that our children are our future and their well-being is our highest priority; and
Whereas, bold changes in the way we deliver services to our families through the new Department of Human Services and our streamlined Department of Public Aid will more efficiently assist families to become self-sufficient; and
Whereas, Illinois has taken the lead in many child support initiatives to help families gain independence; and

Whereas, Illinois is committed to ensuring that all our children receive the financial and emotional support of both parents, their extended families and their communities so that they can grow up in a nurturing environment; and
Whereas, the Department of Public Aid, Division of Child Support Enforcement, has been charged with the responsibility of providing child support services to all Illinois families; and

Whereas, the Department of Public Aid has joined with other agencies in a national "Put Children First" campaign to build collaborative efforts for the sake of our children; and

Whereas, the Department of Public Aid will be working closely with the new Department of Human Services and other state agencies and community groups to increase the number of children for whom paternity is established and to vigorously enforce the collection of child support payments for Illinois families;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 1997 as CHILD SUPPORT AWARENESS MONTH in Illinois.

Issued by the Governor July 10, 1997.
Filed by the Secretary of State July 18, 1997.

97-391
DR. RUSSELL JAMES MARTIN DAY

Whereas, the Illinois Department of Public Health's Division of Infectious Diseases is responsible for protecting the people of the state from a variety of illnesses, including HIV/AIDS, sexually transmitted diseases, tuberculosis, rabies, influenza and vaccine-preventable diseases; and

Whereas, Dr. Russell James Martin, after serving as a U.S. Public Health Service EIS officer with the department for two years, became chief of the Division of Infectious Diseases in 1966; and

Whereas, Dr. Martin also has served the state with distinction as a member and president of the Illinois Public Health Association and as a member of the Illinois Academy of Veterinary Medicine; and

Whereas, Dr. Martin has tirelessly contributed to the education of future generations of veterinarians through his academic appointment with the University of Illinois College of Veterinary Medicine and through his involvement with the university's student chapter of the American Veterinary Medicine Association; and

Whereas, Dr. Martin has served nationally in the American Public Health Association, the Conference of Public Health Veterinarians and the National Association of State Public Health Veterinarians; and

Whereas, Dr. Martin has extended his service to the international community by serving as a consultant to the French Ministry of Foreign Affairs concerning the role of veterinarians in public health agencies; and
Whereas, Dr. Martin is now retiring from these many positions and activities;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 25, 1997, as DR. RUSSELL JAMES MARTIN DAY in Illinois and extend to him best wishes for his retirement.

Issued by the Governor July 10, 1997.

Filed by the Secretary of State July 18, 1997.

97-392

SISTER MARY THOMAS JIRAUCH DAY

Whereas, Sister Mary Thomas Jirauch will celebrate her Golden Jubilee, marking 50 years with the Sisters of Divine Providence, at The Sisterfest Celebration on July 24, 1997; and

Whereas, Sister Mary Thomas has served Saint Elizabeth Medical Center for 38 years. She was President of the Board from 1962 to 1984, when she became Chairman of the Board; and

Whereas, under Sister Mary Thomas' direction, Saint Elizabeth's has grown from a small community hospital to a major medical center in the Metro East Area; and

Whereas, Sister Mary Thomas' concern for children prompted her to develop and support a free immunization clinic for low-income families. The clinic has operated for 23 years and has grown into what is presently the Koch Family Health Center, helping more than 20,000 patients a year; and

Whereas, Sister Mary Thomas knows most of the 1,000 employees at Saint Elizabeth Medical Center on a first-name basis; and

Whereas, her mission is to provide health care to everyone in the community, and she carries out this undertaking with great care and compassion; and

Whereas, her many awards include the Citizen Achievement for 1988 by the s-Tri Cities Area Chamber of Commerce and the St. Louis Globe-Democrat Women of Achievement in 1985;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 24, 1997, as SISTER MARY THOMAS JIRAUCH DAY in Illinois.

Issued by the Governor July 10, 1997.

Filed by the Secretary of State July 17, 1997.

97-393

WELCOME WAGON WEEK

Whereas, Welcome Wagon celebrates its 69th anniversary in July 1997; and

Whereas, Welcome Wagon is the original in-home greeting service that helps families adjust to new communities in Illinois and across the country; and

Whereas, Welcome Wagon encourages neighborhood involvement, strength and pride; and

Whereas, Welcome Wagon promotes good will, helpfulness and a solid sense of community among our new and long-standing residents by extending the warm hand of hospitality to new movers, newly engaged couples, new parents, and new

citizens;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 27-August 2, 1997, as WELCOME WAGON WEEK in Illinois.

Issued by the Governor July 10, 1997.

Filed by the Secretary of State July 17, 1997.

97-394

INTERNATIONAL FIRE BLUFFS ASSOCIATION DAYS

Whereas, the 1997 Convention for the International Fire Bluffs Association (I.F.B.A.) will be held in Chicago; and

Whereas, I.F.B.A. members share an interest in fire services, including the restoration of fire trucks and staffing Salvation Army trucks; and

Whereas, the 511 Club of Chicago, established in 1953, will host this year's convention; and

Whereas, although some of the club's 50 members are firefighters, the majority are civilians; and

Whereas, the 50th annual I.F.B.A. convention will take place July 17-19, 1997, at the Holiday Mart Plaza; and

Whereas, I.F.B.A. members will tour the Chicago Fire Academy and the O'Hare Training Center as part of their convention;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 17-19, 1997, as INTERNATIONAL FIRE BLUFFS ASSOCIATION DAYS in Illinois and thank the I.F.B.A. members for their community service work.

Issued by the Governor July 11, 1997.

Filed by the Secretary of State July 18, 1997.

97-395

MATTOON BAGELFEST DAY

Whereas, Mattoon is home of the first Street Fair held in the State of Illinois, and this year, the city is celebrating the 100th Anniversary of this fair; and

Whereas, Mattoon is the home of the World's Biggest Bagel as acknowledged by the 1997 Guinness Book of Records; and

Whereas, the city is home of the world's largest bagel bakery, Lender's Bagels, which is celebrating its 70th anniversary; and

Whereas, this year is the 12th anniversary of Bagelfest, the world's largest bagel breakfast, which brings over 80,000 people to the community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 26, 1997, as MATTOON BAGELFEST DAY in Illinois.

Issued by the Governor July 14, 1997.

Filed by the Secretary of State July 18, 1997.

97-396

DEPUTY TIM MATTESON COMMEMDED

Whereas, Deputy Tim Matteson risked his life to save the life of another individual, when he responded to a call about a motorist stranded in the freezing waters of a flooded creek on the evening of February 21, 1997; and

Whereas, Deputy Matteson braved the swollen creek and was able to reach the motorist and pull him/her to safety; and

Whereas, Deputy Matteson demonstrated selfless heroism, going above and beyond the call of duty in order assist a fellow citizen; and

Whereas, Deputy Matteson is to be commended for his bravery and humanitarianism;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend Deputy Tim Matteson and extend to him sincere thanks on behalf of the citizens of Illinois for his dedication and compassion.

Issued by the Governor July 15, 1997.

Filed by the Secretary of State July 18, 1997.

97-397

DYSTONIA AWARENESS WEEK

Whereas, dystonia is a neurological disorder in which powerful involuntary muscle spasms twist parts or all of the body; and

Whereas, such spasms are always disabling and often very painful; and

Whereas, the cause of dystonia is unknown and there is no known cure; and

Whereas, those who suffer from dystonia, their families and their friends have formed the Dystonia Medical Research Foundation to help each other and to seek the cause and cure; and

Whereas, the public knows little about dystonia, which may affect as many as 300,000 people in North America; and

Whereas, many citizens react to the physical manifestations of dystonia by avoiding those who have this disorder, causing the sufferers to experience isolation and suffer grave psychological harm; and

Whereas, greater recognition and understanding of dystonia, both in the medical and lay communities, are highly desirable; and

Whereas, widespread public support of efforts to find the causes and cure of dystonia is needed;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 12-19, 1997, as DYSTONIA AWARENESS WEEK in Illinois.

Issued by the Governor July 15, 1997.

Filed by the Secretary of State July 18, 1997.

97-398

HELP HANDICAPPED CITIZENS DAYS

Whereas, members of the Illinois State Council of the Knights of Columbus will conduct their 29th annual fund drive September 19-20 to benefit our mentally retarded citizens. Last fall, the Knights raised more than \$1.6 million, which was distributed to more than 300 organizations devoted to assisting individuals with mental handicaps; and

Whereas, the Illinois State Council of the Knights of Columbus has provided funds and personal assistance to allow youngsters to participate in the local and statewide Special Olympics programs; and

Whereas, the Illinois State Council has provided more than \$3 million to build or reconstruct 23 homes for the mentally retarded in all six dioceses of Illinois; and

Whereas, since the Illinois State Council of the Knights of Columbus initiated this program, 43 other states have activated similar campaigns to provide much needed financial assistance for the mentally retarded;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

September 19-20, 1997, as HELP HANDICAPPED CITIZENS DAYS in Illinois and commend the Knights of Columbus for its generous efforts.

Issued by the Governor July 15, 1997.

Filed by the Secretary of State July 18, 1997.

97-399

INDIA MONTH

Whereas, on August 15, 1947, India won its freedom after 200 years under British rule; and

Whereas, Mahatma Gandhi was instrumental in this peaceful, non-violent transition of power; and

Whereas, 1997 marks the 50th anniversary of this important event in India's history; and

Whereas, the Golden Jubilee Year of India's Independence will be celebrated in August 1997 with events including an exhibition on India, a cultural program presenting folk songs and dances of India, and a seminar on India's civilization, history and culture;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 1997 as INDIA MONTH in Illinois and extend best wishes for the Golden Jubilee celebration.

Issued by the Governor July 15, 1997.

Filed by the Secretary of State July 18, 1997.

97-400

JAMES AND MARION HOLEC DAY

Whereas, James M. Holec married Marion R. Rovtar at St. Mary of Celle in Berwyn, Illinois on August 30, 1947; and

Whereas, Mr. and Mrs. Holec have resided at 1302 Jefferson Avenue in Downers Grove for the past 40 years; and

Whereas, James and Marion have four sons, James Michael Jr., Donald Robert, David Allen and Andrew Kenneth; and

Whereas, they are the proud grandparents of Kelsey Anna, Luke Andrew, Benjamin Cory, Kathleen Megan, Rhys Conor, Melanie Paige and Lauren Mac Kenzie; and

Whereas, James and Marion share many hobbies, including golf and bridge. They enjoy traveling and have taken many cruises; and

Whereas, the Holecs will celebrate their 50th wedding anniversary on August 30, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 30, 1997, as JAMES AND MARION HOLEC DAY in Illinois.

Issued by the Governor July 16, 1997.

Filed by the Secretary of State July 18, 1997.

Rules acted upon during the quarter of April 1 through June 30, 1997 (Issues 17-28) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 III. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. The quarterly Sections Affected Index and Cumulative Index will be published in Issue 29 (July 15); Issue 42 (October 17); and Issue 3 (January 16, 1998). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatala@ccgate.sos.state.il.us (Internet address).

PROPOSED

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GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
111 E. MONROE
SPRINGFIELD, IL 62756

